

UNITED STATES OF AMERICA

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DEPARTMENT OF COMMERCE

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NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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MARINE FISHERIES ADVISORY COMMITTEE

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Tuesday, May 12, 2009

The Marine Fisheries Advisory Committee met in the Colton Rooms I and II at the Monterey Conference Center, One Portola Plaza, Monterey, California 93940, at 8:35 a.m., James Balsiger, Vice Chair, presiding.

MEMBERS PRESENT:

JAMES BALSIGER, Vice Chair
MARK HOLLIDAY, Executive Director
TOM J. BILLY, Committee Liaison
RANDY CATES
BILL DEWEY
ANTHONY D. DiLERNIA
PATRICIA DOERR
EDWIN A. EBISUI, JR.
ERIKA A. FELLER
MARTIN FISHER
ROBERT FLETCHER
CATHERINE L. FOY
STEVE JONER
DOROTHY M. LOWMAN
HEATHER D. McCARTY
TOM RAFTICAN
ERIC C. SCHWAAB
DAVID H. WALLACE

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CONSULTANTS TO MAFAC PRESENT:

RANDY FISHER
JOHN V. O'SHEA
LARRY SIMPSON

ALSO PRESENT:

LINDA A. CHAVES
DAVID CRABB
WALT DICKHOFF
PAUL DOREMUS
BILL DOUROS
JESSICA M. DUTTON
CHURCHILL GRIMES
TIM HANSEN
HEIDI LOVETT
PAUL MICHEL
SAM RAUCH
ALAN RISENHOOVER
PHIL SPILLER
JOHN STEIN

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

2 (8:35 a.m.)

3 VICE CHAIR BALSIGER: Good morning,
4 everybody. So this is a large group and
5 everybody was here at 8:30. I'm overwhelmed.

6 Thank you very much. It makes it a lot
7 easier to get business done. So don't take
8 this wrong, because tomorrow I'll be late for
9 a different reason, but it shows a lot of
10 respect for the process and the people when
11 you do that, so we should start and try to
12 keep on schedule to back that up, but that's
13 good.

14 So I think maybe the very first
15 thing, we have the agenda, and it starts out,
16 it says, "Introductions & Opening Remarks".
17 Well, I have just a few things to say. We
18 have some new people, so let's go around the
19 table and find out who everybody is. I think
20 I know everybody's name, but I'll let you
21 introduce yourselves just so I don't get that
22 accent on the wrong syllable.

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1 7 But I'm Jim Balsiger. Right now
2 I'm the head for the Fishery Service.

3 DR. HOLLIDAY: I'm Mark Holliday.
4 I'm the Executive Director of MAFAC and
5 Director of Policy for the Fishery Service.

6 MR. DiLERNIA: My name's Tony
7 DiLernia. I'm a MAFAC member from New York,
8 and the City University of New York is where I
9 work.

10 MR. O'SHEA: Good morning. Vince
11 O'Shea, Atlantic States Marine Fisheries
12 Commission.

13 MR. RANDY FISHER: Randy Fisher,
14 Pacific States Marine Fishery Commission.

15 MR. SIMPSON: Larry Simpson, Gulf
16 States Marine Fisheries Commission.

17 MR. WALLACE: Dave Wallace from
18 Maryland. I represent the commercial fishery
19 industry.

20 MR. MARTIN FISHER: Martin Fisher,
21 commercial fisherman from Florida.

22 MR. EBISUI: I'm Ed Ebisui from

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1 Hawaii.

2 MS. FOY: I'm Cathy Foy. I'm a
3 marine mammal biologist from Kodiak, Alaska.

4 MR. FLETCHER: I'm Bob Fletcher,
5 Senior Advisor to the Sportfishing Association
6 of California.

7 MR. SPILLER: I'm Phil Spiller.
8 I'm with the Center for Food Safety and
9 Applied Nutrition with the U.S. Food and Drug
10 Administration.

11 MR. CATES: Randy Cates. I'm
12 involved in aquaculture, commercial fisheries,
13 marine salvage, and now coral restoration.

14 MS. FOY: Yay.

15 MR. CATES: Anybody want to guess
16 why.

17 MS. LOVETT: Heidi Lovett, Office
18 of Policy. I work with Mark Holliday.

19 MR. RISENHOOVER: Alan Risenhoover,
20 Director of NMFS' Sustainable Fisheries
21 Office.

22 MR. DOREMUS: Paul Doremus. I'm

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1 NOAA's Director of Strategic Planning.

2 MR. JONER: I'm Steve Joner from
3 Washington State. I work with tribal
4 fisheries and one of the main items of my diet
5 now is coral.

6 (Laughter.)

7 MR. CATES: I got a bunch to sell
8 you then.

9 MR. HANSEN: That's hard to top.
10 I'm Tim Hansen, NOAA's Fishery Seafood
11 Inspection Program.

12 MS. DOERR: Patty Doerr with the
13 American Sportfishing Association.

14 DR. STEIN: John Stein, Deputy
15 Director of Northwest Fishery Science Center
16 in Seattle.

17 MS. LOWMAN: Dorothy Lowman,
18 natural resource consultant out of Portland,
19 Oregon.

20 MR. GRIMES: Churchill Grimes,
21 Director of the National Marine Fisheries
22 Service Lab at Santa Cruz, about 40 miles up

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1 the road here.

2 MR. DEWEY: Good morning. I'm Bill
3 Dewey with Taylor Shellfish Company in
4 Washington State.

5 MS. FELLER: I'm Erika Feller with
6 the Nature Conservancy in California.

7 MS. McCARTY: I'm Heather McCarty.
8 I'm a commercial fisheries consultant from
9 Juneau, Alaska.

10 MR. RAFTICAN: Tom Raftican, the
11 Sportfishing Conservancy, and welcome to
12 California.

13 MR. SCHWAAB: Eric Schwaab with the
14 Maryland Department of Natural Resources.

15 MR. RAUCH: Sam Rauch, Deputy
16 Director of the Fishery Service.

17 MR. BILLY: Tom Billy, Seafood and
18 Food Safety Consultant.

19 MR. BILLY: Walt.

20 MR. DICKHOFF: Walt Dickhoff, NOAA
21 Fisheries Northwest Center, Seattle.

22 MS. CHAVES: Linda Chaves, Senior

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1 Advisor, Seafood Industry Issues, National
2 Marine Fisheries Service, headquartered in
3 Seattle.

4 MS. DUTTON: Jessica Dutton. I'm a
5 Knauss Sea Grant Fellow this year in Mark
6 Holliday's office.

7 VICE CHAIR BALSIGER: So thanks,
8 everyone. We've got a few new members, and
9 I've known most of these people a long time,
10 they're out of context, so I'm not absolutely
11 sure who the new ones are. I know Ed's new on
12 this committee, Ed Ebisui. Let's see, Dave
13 Wallace, are you new?

14 MR. WALLACE: No. I'm not. I've
15 been here before.

16 DR. HOLLIDAY: From November.

17 VICE CHAIR BALSIGER: From
18 November, right.

19 DR. HOLLIDAY: New from November.

20 VICE CHAIR BALSIGER: Who else is
21 new? Erika Feller's new. Patty.

22 How long have you been on, Patty?

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1 MS. DOERR: Since November.

2 VICE CHAIR BALSIGER: Since
3 November. A special welcome to the new
4 people, so thanks. And I'm pleased. It's nice
5 to have some new faces. FDA, I don't know if
6 we've ever had anybody from FDA at one of our
7 MAFAC meetings before. We are going to have
8 some other Sanctuary people here and the MPA
9 person here later in the day to talk about
10 items on the agenda. So it's quite an
11 expansive, interesting group.

12 I'm glad that Paul Doremus is here.

13 It's probably his first MAFAC meeting. We're
14 going to talk about strategic planning, and I
15 may have comment on this in my remarks, but
16 strategic planning is an interesting process.

17 And I don't know that the plans are all that
18 useful, but the planning part is, trying to
19 figure out why you want to get where you're
20 going to get and what people are thinking
21 about. So Paul will tell us probably that the
22 plans are important as well, but at least

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1 getting there is a big effort and it's useful.

2 So I'm going to talk a couple
3 minutes about some of the new faces and new
4 people we have and the transition to the new
5 Obama Administration. As you know, Gary Locke
6 has been identified, past governor of
7 Washington, as the Secretary of Commerce. I
8 haven't actually had a chance to meet him back
9 there except to wave at him in the hallway.

10 Dr. Jane Lubchenco, who was a
11 marine ecologist professor from Oregon, for
12 Oregon State, is head of NOAA now, so she's --
13 the good news and the bad news is she's very,
14 very interested in what we're doing.

15 (Laughter.)

16 VICE CHAIR BALSIGER: And so where
17 it's good to have someone that's a biologist
18 and ecologist and probably knows the
19 scientific names of more fish than most people
20 do in this room, the one she doesn't know she
21 wants to learn before she acts about. She's
22 interested in sampling design, she wants to

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1 know how the data was collected. She wants to
2 know the names of all the fishermen involved.

3 She wants to know everything. She wants to
4 know all the details.

5 Like I said, that's the good news.

6 The bad news is it takes time to get that
7 done. So we're struggling to come up to
8 speed, to know how to predict the time
9 required for briefing her to get the materials
10 together the first time so we know what she
11 wants to see and what isn't wasted. So we're
12 learning, but I think it's good to have
13 someone at the head of NOAA who's genuinely
14 interested in the oceans. So that's going to
15 be good for us in the long run.

16 She has named a senior advisor
17 named Monica Medina, who's an ex-NOAA lawyer
18 from, I believe, the Clinton years. So she's
19 back as -- probably has not settled out into
20 -- I'm guessing, this is just me saying this
21 -- hasn't figured out exactly what position's
22 she's going to have in NOAA as it goes

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1 forward.

2 There are several -- if Lubchenco
3 adopts the same structure as Lautenbacher had,
4 there would be a deputy administer, a deputy
5 secretary for oceans, a chief of staff,
6 probably a deputy chief of staff, general
7 counsel, director of legislative affairs. So
8 there's lots of open senior-level positions in
9 NOAA yet and obviously Monica will have one of
10 those. Maybe she'll stay a special assistant,
11 but there will be a bunch of new people coming
12 into those positions as well. Of course they
13 have not identified who they will have as
14 assistant administer for Fisheries yet, so
15 some of us are interested in that, too.

16 Let's see, other new people with an
17 interest in ocean management: John Holdren,
18 who's with the White House Office of science
19 -- and what's "OSTP" stand for? Office of
20 Science and Technical Policy, has a
21 demonstrated interest in oceans.

22 Carol Browner, new Coordinator of

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1 Energy and Climate Policy in the White House.

2 And then the head of CEQ, Nancy Sutley, is
3 interested in oceans.

4 These are all people that have a
5 conservative outlook, interested in
6 sustainable use of the oceans, of the living
7 resources, and so I think as we go through
8 another few months it'll be a fun time to do
9 MAFAC. I've actually been able to talk to
10 Sutley, obviously, Monica Medina and
11 Lubchenco. And they -- on the list of people
12 we thought they should talk to, we always
13 provided MAFAC, at least the chairs or MAFAC
14 members, and we have a list of them, and they
15 tend to talk to you, but they have been very,
16 very busy, partly because trying to come up to
17 speed on how regulations are processed. So I
18 don't think it will be very far down the road
19 before at least the chair or the vice chair,
20 maybe the chairs of our subcommittees are
21 hearing from and wanting to know what you're
22 thinking about issues.

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1 So this week, this meeting we've
2 got some interesting looks at some of the new
3 evolving NOAA priorities. Marine spatial
4 planning is kind of a buzzword, but the boss,
5 Dr. Lubchenco's very interested in zoning of
6 the oceans, and it doesn't necessarily mean
7 like on land-based geography whether it's east
8 of the street you can do one thing and west
9 another. Maybe it means that, but there may
10 be other ways to divide up the ocean to make
11 sure we've got space for energy, space for
12 aquaculture, space for fishing, space for
13 nothing, sanctuaries, that kind of stuff.

14 So it'll be interesting. It's a
15 theme area that they're looking at. Regional
16 governance, ecosystem-based planning including
17 how to include the coastal local leaders, all
18 of the regional people in the spatial
19 planning, to the end of meeting U.S.
20 environmental and economic requirements and
21 challenges.

22 And there's a continued commitment

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1 to end overfishing. And of course it's not
2 necessarily -- well, it's important, but it's
3 in the law, so we are working on ending
4 overfishing. When -- we will get there.
5 Everybody knows we're just a new stock
6 assessment away from another overfished stock,
7 as the oceans are dynamic and things go up and
8 things go down.

9 This particular administration
10 believes that catch share programs, LAPPs and
11 DAPPs, IFQs, ITQs, are a basic and important
12 solution to basically every fishery-management
13 problem. So you're going to see a huge push
14 on LAPPs, Limited Access Privilege Programs,
15 Catch Share Programs, as the way forward in
16 most of our fish issues. And of course I'm a
17 fan of those things. I don't necessarily
18 think they apply everywhere, but I'm not sure
19 that the boss is convinced they don't apply
20 everywhere yet, so keep tuned on that.

21 We're also going to talk today, I
22 mentioned briefly, about the strategic

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1 planning, and I do believe that the planning
2 part of it is important, so we all have some
3 idea of what we're trying to do. I don't know
4 that we need a MAFAC strategic plan, but it's
5 almost something analogous to that so you know
6 what happens to the work you do here and how
7 it has a possible impact on anything. So it's
8 hard for a group like this or the Fishery
9 Service or any one of our labs or centers or
10 programs to work if they don't know what's
11 going to happen to their product, and it's all
12 part of the planning process. So that's
13 useful.

14 We are doing a strategic plan in
15 seafood safety and quality. Tim Hansen's
16 here. He will talk about that a little bit.

17 We are also interested in the
18 performance metrics for the regional councils,
19 if there's -- do we have that on the agenda --
20 so we're going to talk about that briefly.

21 Let's see. We have new legislative
22 priorities in the 111th Congress, probably the

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1 top one of course is the economic issues that
2 are going on, so we'll have an update on
3 Obama's -- or the President's 2010 budget
4 request. There's some interesting information
5 on that. I don't know who's going to give
6 that. I don't think Gary Reisner's going to
7 get here.

8 DR. HOLLIDAY: Sam will.

9 VICE CHAIR BALSIGER: Sam's going
10 to give that, so it may not be that
11 interesting then because he's a lawyer.

12 (Laughter.)

13 VICE CHAIR BALSIGER: There's a
14 chance he'll be my boss soon too, so I'd like
15 to retract that.

16 So, let's see, and we're going to
17 look a little bit at the stimulus funding. We
18 had \$170 million we put out in stimulus
19 funding package, received several hundred
20 applications for that money. So that's
21 interesting. We'll talk about that a little
22 bit.

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1 Sam will also talk about the
2 legislative agenda for the year.

3 Alan's going to talk about
4 upcoming, new Fishery Service rules. We have
5 a few policy decisions that we're making,
6 working on some guidelines and some other
7 things that are going on in the sustainable
8 fisheries world.

9 We also have -- doing some work on
10 NMFS and industry, NMFS and stakeholders'
11 communications, how we communicate scientific
12 information. We stubbed our toe a little bit
13 in New England and so we've got some moving
14 forward on some new communication things. So
15 we'll talk about that down the road.

16 We have a couple of regional items
17 here, which we're here and able to take
18 advantage of that. One of them is, from the
19 NOS, we've got people here, Charlie Wahle from
20 the Marine -- the MPA Center -- is that what
21 it is -- who's going to talk about marine
22 spatial planning. I think that's tomorrow.

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1 The Office of Sanctuaries, Bill
2 Douros, Paul Michel, highlights on activities
3 and efforts at the Sanctuary on the Monterey
4 Bay. So those are regional. But we've got
5 sanctuaries around the country, and so it has
6 some national import as well. So that will be
7 interesting to hear.

8 And Churchill Grimes is here.
9 He's, as he said, from the Santa Cruz Lab,
10 which I thought you could see from here but
11 it's too far away, I guess.

12 MR. GRIMES: When it's not foggy.

13 VICE CHAIR BALSIGER: We also have
14 subcommittees that we want to get some work on
15 over the next three days. So we've got a lot
16 to do. So, again, thanks a lot for showing up
17 on time. I appreciate your attention and
18 interest. And, with that, Tom Billy's going
19 to take over.

20 MR. BILLY: Okay. Thank you very
21 much and I'd like to add my welcome to all of
22 you. If you've looked over the agenda you

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1 will notice that it follows the format that
2 the past several agenda used, which is to
3 focus on both updates that inform the
4 Committee, providing information that will be
5 helpful to us in our deliberations on key
6 issues or whatever subjects we may choose to
7 discuss both at this meeting and subsequently.

8 In addition to that we try to
9 identify key issues that are front and center
10 in terms of, in this instance, a new
11 administration, or because of what's going on
12 in our fisheries.

13 This information and focus then
14 allows the Committee to consider what the
15 issues are, to formulate recommendations to
16 NOAA Fisheries, NOAA, and the Department of
17 Commerce. And I know from my experiences in
18 the last few years, they do listen, they pay
19 attention to what we think, and it does have
20 an impact.

21 If you look at the agenda for
22 today, in particular the first two items are

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1 issues related to the safety and quality of
2 seafood. First, Phil Spiller from the Food
3 and Drug Administration will talk about some
4 work that has been done at FDA to get a better
5 handle on the risks and benefits associated
6 with methylmercury and seafood.

7 Then Tim Hansen will be following
8 up on our request to formulate a strategic
9 plan for NOAA's involvement in seafood safety
10 and quality and, in particular, the inspection
11 program and other related activities that NOAA
12 conducts.

13 Down at the bottom of the page on
14 our agenda you'll see the first two
15 subcommittee meetings. This is -- my comments
16 now are particularly directed at some of the
17 new members. The strategy we've been using is
18 to hear some presentations that help us
19 understand, provide relevant information to
20 us, and then break into working subcommittees
21 or working groups to allow some of the members
22 of the Committee, whoever wishes to

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1 participate in the various subcommittees, to
2 focus in and decide what, if anything, MAFAC
3 would like to say about the subject area.

4 And often the subcommittees will
5 come up with a resolution, a set of
6 recommendations that then come back to the
7 full committee for their consideration. And
8 our first two meetings this afternoon are the
9 Commerce Subcommittee and then the Fishery
10 Disasters Working Group, which is a
11 subcommittee by another name. It's finite,
12 will be working -- rather than a standing
13 subcommittee, it's got a particular subject
14 area. It will come up with some
15 recommendations. And we use working groups
16 for that purpose.

17 To go onto the second day, there's
18 two more sessions at the subcommittee level.
19 You'll see at the bottom it says Strategic
20 Planning, Budget, and Program Management
21 Subcommittee. Well, that follows on the
22 earlier discussions we'll have that day on

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1 strategic planning, what's happening at the
2 NOAA level, in NOAA Fisheries, and our
3 thinking about deciding how we might want to
4 be involved. It's what we wish to do in this
5 subject area, or recommend to NOAA in that
6 regard.

7 And then we've talked about the
8 Ecosystem Subcommittee which will focus on the
9 concerns about global warming, acidification
10 of the oceans, and perhaps other topics that
11 we'll hear about over the course of this
12 meeting. And, again, come back, because if
13 you then turn to page 3 you'll see in the
14 morning we're going to hear from the chairs of
15 the various subcommittees and the working
16 group on what they recommend to the full
17 Committee for consideration.

18 And we'll, as appropriate, vote on
19 any resolutions or other -- deal with any
20 other suggestions that they may have come up.

21 That's kind of the process, and I
22 wanted to go over that, in particular, for

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1 some of the newer members.

2 We'll try to wrap things up by four
3 o'clock on Thursday. As you know, I work hard
4 at sticking to schedules and I think it's
5 important for all of us. And I'd be happy to
6 entertain any questions or comments you have
7 about the agenda?

8 Anyone? Bill.

9 MR. DEWEY: Tom, with some of these
10 committees we're going to have I think
11 transition and leadership on these committees,
12 maybe you want to discuss about chairmanship
13 of those committees and how we're going to
14 deal with that?

15 MR. BILLY: I'll defer to Mark or
16 Jim for that.

17 DR. HOLLIDAY: So the last meeting
18 in November we discussed this rotation, as a
19 number of the committee chairpersons were
20 actually rotating off the committee at that
21 last meeting, so we recognized the need for
22 new members.

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1 We asked you to indicate your
2 interest and willingness to serve as a
3 committee chair by emailing or contacting me.

4 And Jim was going to provide some feedback at
5 this meeting as to the persons who would be
6 taking over for those subcommittee
7 responsibilities.

8 So we're going to meet, sort of
9 pass the torch, and from the next meeting on
10 we'll have the new committees' chairpersons in
11 place. So we'll be dealing with that
12 transition at this meeting.

13 MR. BILLY: And that comes up, I
14 think, on the third day.

15 DR. HOLLIDAY: Well, by then it
16 will be -- yeah.

17 MR. BILLY: Yeah, at our MAFAC
18 administration. Okay.

19 DR. HOLLIDAY: So I had a few
20 administrative issues --

21 MR. BILLY: Yeah, Mark.

22 DR. HOLLIDAY: -- that just might

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1 be on your mind and things that are important
2 to the pointy-headed bureaucrats.

3 This is a public meeting so members
4 of the public are invited to attend. We
5 publish notice in the *Federal Register*, so
6 people may be coming. I've had some
7 indications of people asking for directions,
8 time and place. We have a gallery for them to
9 sit and watch.

10 There's a public opportunity for
11 comment on the last day. Rarely is that taken
12 advantage of, but just so you know, again for
13 some of the new members, that members of the
14 public are welcomed at these meetings and are
15 able to have part of the agenda at some point,
16 an appropriate point in time.

17 We are recording the meeting. We
18 have a court reporter. Hi.

19 THE REPORTER: (Waves.)

20 DR. HOLLIDAY: And what I would
21 ask, especially this morning, the first time
22 that you speak, if you could indicate your

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1 name and preface your remark with your name so
2 that we can get names and locations and sound
3 checks all properly recorded for the
4 recording.

5 If you haven't signed it, you're
6 not a MAFAC member but you're a visitor,
7 either a guest speaker or just attending the
8 meeting, there's a sign-in sheet that we're
9 required to maintain lists of people who were
10 physically at the meeting. That's on the
11 table outside, if you can cooperate and sign
12 it with your name, please.

13 In terms of briefing books, in
14 accordance with our paperless environment
15 we're trying to minimize the amount of paper,
16 and so we posted as much possible on the MAFAC
17 -- our website. If you have a laptop with you
18 and you haven't had a chance to download it,
19 we have a couple of thumb drives that have all
20 of the presentation materials that we received
21 to date. And so well pass that around and let
22 you borrow that and copy to your hard drive,

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1 if you'd like that.

2 Bathrooms are out this door and
3 then to your right, so we'll be taking a
4 couple of breaks every day. A ten o'clock
5 break, we'll have coffee. I think this
6 morning's was a little late because I heard a
7 huge crash at about 8:05.

8 (Laughter.)

9 DR. HOLLIDAY: I think that was the
10 cart with the coffee on the way to our room
11 and they had to restart and make that over
12 again. But it should be here tomorrow.
13 Before we start there will be some light
14 refreshments in the morning and afternoon at
15 the breaks, at ten o'clock and around three
16 o'clock.

17 Lunches, we're going to have --
18 will approximately have an hour for lunch.
19 There are a number of different places you can
20 walk to and be back to pick up a quick lunch.

21 Fisherman's Wharf, we'll point people in the
22 right direction. It's a five- to seven-minute

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1 walk. You can grab a fish sandwich or some
2 calamari, and get back here in time. So we'll
3 have lunch every day.

4 Subcommittee meetings, there's a
5 brief switch. The breakout room, we have two
6 rooms, and these are going to be simultaneous
7 meetings. So this is called the Colton main
8 room. Behind this wall, and the entrance to
9 it is around the corner, is the breakout room.

10 And this afternoon we're going to switch
11 because we're going to need the projector for
12 the Fisheries Disaster Working Group. So the
13 Fisheries Disaster Working Group will stay in
14 this room and the other, the Commerce
15 Subcommittee, will meet next door to us.
16 That's the only change in rooms. But
17 tomorrow, again, the subcommittees, between
18 this room and the one next door, you can't get
19 lost too easily.

20 And, lastly, Tom, I'd like to
21 burden you of talking a little bit about
22 tonight's reception.

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1 MR. RAFTICAN: Okay.

2 DR. HOLLIDAY: And I didn't tell
3 you that in advance, but...

4 MR. RAFTICAN: Fair enough.

5 This evening we've got the
6 opportunity through CARE, California
7 Artificial Reef Enhancement Program, and the
8 Sportfishing Conservancy and the Monterey Bay
9 Aquarium have opened up a reception from 7:00
10 to 9:00 p.m. this evening at the Aquarium.

11 If any of you have not seen the
12 Aquarium, it's really world class. It's a
13 pretty impressive place. There will be hors
14 d'oeuvres there. It's not a full dinner, but
15 there will probably be fairly heavy hors
16 d'oeuvres there. For those of us that run
17 nonprofits, that will fill in for dinner.

18 (Laughter.)

19 MR. RAFTICAN: But, anyhow, you're
20 all welcome and we'll see you there at seven
21 o'clock. And, again, it's just an awesome
22 place.

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1 DR. HOLLIDAY: So in terms of
2 logistics, a number of us have rented vehicles
3 to get to and from the airport. I've got a
4 van. I'll be meeting people in the lobby a
5 little bit before seven o'clock and I can make
6 a couple of trips. If you have a car that
7 you're willing to volunteer and take people
8 with you, I'd again recommend you show up in
9 the hotel lobby probably quarter of, 6:45,
10 quarter to 7:00. And we'll make -- I'll make
11 at least two trips to make sure that no one's
12 left behind.

13 It's a long -- you could walk it.
14 It's a mile and a half, but it's a healthy
15 walk. But we'll -- you can walk there or we
16 can give you the lift and back. So the plan
17 would be meet in the hotel lobby about quarter
18 of. We'll get people there.

19 Okay, questions? Oh, Larry.

20 MR. SIMPSON: Additionally, on the
21 deal tonight, I've rented a car too, so I'll
22 be there with transportation for three people.

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1 On Friday I'll be driving back to
2 San Jose Airport. Anybody took a shuttle and
3 wants to ride back, they're welcome. Just see
4 me.

5 DR. HOLLIDAY: And Jessica --
6 excuse me, Larry.

7 MR. SIMPSON: I'll be leaving about
8 eight o'clock or so.

9 DR. HOLLIDAY: Jessica has a list
10 of people, your itineraries. And so if you're
11 looking to match up with somebody and you're
12 curious, you can check with Jessica about the
13 latest news that we have about when people are
14 going back to the airport, if you're either
15 offering a ride or looking for a ride.

16 MR. BILLY: Okay. Thank you.

17 Any other comments or questions?

18 Okay. Well then let's swing into
19 the next item on the agenda which is under the
20 broad category of Seafood Safety and Quality.

21 It is a presentation to be provided by Phil
22 Spiller from FDA on a project that FDA has

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1 been working on for, I guess, the past three
2 years.

3 A little bit of transparency first.

4 I was involved in this project for one year
5 when it first started about three years ago.

6 I was contracted with by FDA to help plan how
7 to carry out the work and involved in with a
8 team that worked on the initial thinking and
9 investigations that were carried out by
10 various experts at the Food and Drug
11 Administration, but I have not been involved
12 for over two years now.

13 A little bit of history. Back in
14 the late 1960s a Professor Duffy from one of
15 the New York universities analyzed several
16 cans of tuna and found methylmercury. And
17 methylmercury is recognized as a toxicant and
18 there had been incidents prior to that in
19 other parts of the world that raised concerns
20 and triggered work by the Food and Drug
21 Administration and others to quickly come to
22 terms with the presence of methylmercury in

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1 seafood and put in place regulatory controls
2 that were appropriate to the time and the
3 information that was available.

4 So now almost 40 years later we
5 know a lot more about methylmercury but as
6 important or perhaps more important, beginning
7 in the '70s and increasingly focused on in the
8 '80s, researchers started to look at the
9 benefit of seafood, and in particular, the
10 omega-3 fatty acids in seafood but other
11 constituents of seafood as well.

12 And NOAA played a very active role
13 in that process. Most of you probably are not
14 aware that NOAA manufactured the fish capsules
15 that were used by many of the NIH researchers
16 that studied the effects of seafood and the
17 omega-3 fatty acids, in particular, on
18 cardiovascular disease and other diseases that
19 were looked at and are continued to be looked
20 at. NOAA made millions of capsules that were
21 used in large clinical trials and other
22 studies over several decades.

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1 Now a lot of that work was reported
2 on back in 1985 when NOAA sponsored a seafood
3 and health conference where researchers
4 reported on their findings to that date, and
5 it was becoming clear that there were
6 significant benefits from seafood in the diet.

7 That started to trigger then some
8 questions about, well, wait. If there's
9 methylmercury and other contaminants in
10 seafood, yet when you measure or monitor the
11 impact -- health impact of seafood in the
12 diet, you see positive effects, how do we
13 explain this. How do we get our arms around
14 what's going on here.

15 And eventually the Food and Drug
16 Administration decided to carry out a special
17 project that looked hard at this question and
18 as part of the process developed a whole new
19 science for how to consider the combination of
20 the adverse effects and the beneficial effects
21 in sort of one equation, if you will, in one
22 framework.

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1 And so that sets the stage then for
2 Phil Spiller's presentation. Phil has
3 indicated that if you have a question for
4 clarity, as he's making his presentation feel
5 free to raise the question. We'll have some
6 time for discussion after he finishes. And
7 then we will obviously have an opportunity to
8 discuss it in much more detail this afternoon
9 at the subcommittee meeting.

10 So with that I'd like to provide
11 Phil the opportunity to make his presentation.

12 MR. SPILLER: Thank you.

13 I certainly appreciate the
14 invitation that I received to come here and
15 present our work to you. And so I am here
16 today to describe an effort by the Food and
17 Drug Administration, which I have been a part
18 of for the last several years.

19 (Comments about the slide
20 projector.)

21 MR. SPILLER: I want to describe
22 for you our effort to develop and to also

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1 implement a new way for evaluating the health
2 consequences of eating commercial fish.

3 Our focus is on commercial fish
4 because the Food and Drug Administration has
5 got some boundaries put on it by law as to
6 what it can look at and what is outside the
7 scope of its jurisdiction.

8 Our jurisdiction for food safety
9 with regard to fish goes to commercial fish,
10 but not with regard to things like sports
11 fishing or subsistence fishing or very
12 localized situations. So you'd be -- the
13 constitutional term is Food and Interstate
14 Commerce. But that's what it means. It's
15 sort of the nationally-representative
16 regulatory structure.

17 FDA is a regulatory agency, so
18 consequently our traditional focus has been on
19 determining whether a food may pose a health
20 risk due to a harmful substance in the food.
21 In the case of fish we were looking
22 specifically at methylmercury with regard to

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1 this project.

2 But I can tell you that over the
3 years a number of concerned scientists and
4 managers, including myself, at FDA became
5 concerned that the methodologies that we had
6 been using and, quite frankly, are used
7 worldwide to consider risk and to try to
8 measure risk from environmental contaminants
9 in fish such as methylmercury really provide -
10 - and I will explain this a little bit later -
11 - an incomplete picture of risk.

12 We're forced to risk-manage and, in
13 some respects, groping a bit in the dark. And
14 that has been troubling to a lot of us and so,
15 consequently, we were extremely interested in
16 taking another look at how we consider risk
17 for environmental contaminants such as
18 methylmercury to see if we could come up with
19 a methodology that would help fill in some of
20 our gaps.

21 As we started into this project, we
22 became more and more aware of research, which

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1 I will discuss also later, on beneficial
2 health effects from eating fish. And it
3 dawned on us that if we wanted to do this all
4 the way, -- I need to go -- could you go back?

5 MS. LOVETT: Yeah, I just hit a
6 button there, so it is working.

7 MR. SPILLER: Okay. Thanks.

8 MS. LOVETT: Here we go.

9 MR. SPILLER: Okay. Thanks.

10 We wanted to also see whether in
11 our exploration of a new methodology, of a new
12 way of looking at risk, we could also take
13 into account whether the food might also be
14 beneficial to health and explicitly beneficial
15 to health in ways that might actually affect
16 the very risk that we are concerned about.

17 And after a few years of
18 exploration and a fair amount of trial and
19 error we felt that we had come up with a
20 methodology which I will describe. We decided
21 to call it a risk and benefit assessment
22 methodology. And the question that we then

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1 had to ask ourselves was: Do we stop now and
2 simply submit a report to our agency that we
3 think that there is another methodology that
4 could be used, or should we go ahead and take
5 a try at it. And it just became irresistible
6 for us. And, well, you know, it's what we do.

7 And so we decided to give it a try
8 with the blessings of leadership at the Center
9 for Food Safety and Applied Nutrition and also
10 FDA. So, consequently, what started out as a
11 project that we thought was going to last
12 somewhere between six months and a year ended
13 up taking -- Tom said three, my last count was
14 -- close to four years to produce what we
15 thought would be a draft that would at least
16 be good enough that we could show it to the
17 public and give the public the opportunity to
18 comment on that draft.

19 I can tell you that before we made
20 the draft public we went through -- for me --
21 an excruciating round of internal review by
22 senior scientists within the Center for Food

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1 Safety and Applied Nutrition, integrating
2 their comments into the draft.

3 After that we then went through an
4 external peer review process in which we found
5 nongovernment scientific experts, mostly in
6 academia and in some of the medical
7 professions, to give us a peer review of our
8 risk and benefit assessment. We received that
9 and integrated in the comments of that. We
10 then went through what was called an
11 interagency review by other federal agencies
12 in the government, and we received a lot of
13 comments from a number of agencies.

14 One of the agencies that
15 participated in that was the National Marine
16 Fisheries Service and including two folks who
17 are here today, Walt Dickhoff and Linda
18 Chaves. And we are and remain extremely
19 grateful to them and to NMFS for the high-
20 quality review that they have provided us and
21 the input and the comment that they gave to
22 us, which we all took -- we took into account

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1 as we went forward to produce a document for
2 publication.

3 And there were other agencies as
4 well. NIH was involved, CDC was involved, EPA
5 was involved. All agencies gave us comments
6 and we took into account the comments from all
7 of them before we went forward with the draft.

8 And we issued the draft last
9 January. In fact, the document was so long
10 that we decided to break it in half. One is
11 the big risk and benefit assessment. The
12 other, we started out deciding that we wanted
13 to try to provide people in an appendix with
14 at least a plausible biological basis,
15 scientific basis, for why the current state of
16 the research is showing -- consistently
17 showing health benefits for breeding
18 commercial fish. And there was so much
19 research on the subject we decided we would
20 attempt to inventory the research. But it
21 became so extensive that we realized that our
22 summary of public research was a major

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1 document in and of itself. And so,
2 consequently, we published that one also as a
3 separate document.

4 We put it out for comment, like I
5 said, in January. We gave the public a three-
6 month public comment period, which ended April
7 21st. To be perfectly transparent about it,
8 we still have comments that are coming in and
9 at some point we will, in fact, have to cut
10 off the comments because we will have to move
11 on. But right now, comments that are
12 straggling in, we still are happy to accept.

13 And we have received up to now
14 hundreds of comments; we have received a memo
15 from academia, we have received them from
16 researchers, we have received them from
17 various advocacy organizations, we have
18 received them from industry organizations, we
19 received them from governments and government
20 agencies. And we're happy to get them all.

21 So I'm now going to mention
22 methylmercury almost for the first time. You

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1 won't see methylmercury in the title of the
2 assessment, and that is by design. And that
3 will become clear later on.

4 Certainly we started the project in
5 order to better meet our regulatory
6 responsibilities relating to the presence of
7 methylmercury in commercial fish. And, for
8 that reason, the assessment focuses on three
9 health areas for which methylmercury in fish
10 could potentially be a risk factor in the
11 United States based on the results of at least
12 some research studies.

13 The areas that we looked at, the
14 areas that we assessed, were fetal neural
15 development. And by "fetal neural
16 development," what we mean by that is the
17 effect on the developing nervous system of the
18 fetus as a result of a mother eating
19 commercial fish containing methylmercury and
20 passing along both the methylmercury and the
21 beneficial nutrients from the fish to the
22 developing fetus.

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1 The other effects that we looked at
2 were fatal coronary heart disease and fatal
3 stroke in the general population. And what we
4 mean by that is the risk from eating fish, all
5 of us eating fish, having a fatal heart attack
6 or a fatal stroke. Methylmercury has been
7 associated with those two conditions in at
8 least some research studies. The data for CHD
9 and stroke is not as strong as it is for fetal
10 neural development, but it is there and,
11 consequently, we felt an obligation to take as
12 hard a look at it as we possibly could.

13 Just some very quick methylmercury
14 101. Fish is the primary route of exposure to
15 methylmercury. If you're itching to get your
16 dose of methylmercury you are going to have to
17 eat fish to do it.

18 And we all, in fact, have got
19 methylmercury in our systems; every one of us.

20 Even people -- it was discovered -- in a CDC
21 survey, people who claimed that they ate no
22 fish still have some small amounts of

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1 methylmercury in their system.

2 Methylmercury is essentially in all
3 fish. It is naturally occurring from geologic
4 and biological processes. It has always been
5 there. Human beings have always been exposed
6 to methylmercury. For that reason I, just as
7 a personal note, I have to tell you that I
8 tend to wince whenever I hear somebody state
9 that a certain species of fish is
10 "contaminated" with methylmercury. The fact
11 of the matter is all fish contain
12 methylmercury, at least in trace amounts, and
13 they always have.

14 There is no evidence so far,
15 although admittedly, the evidence that we do
16 have is limited -- I'm not going to claim that
17 it's extensive -- of increases in levels of
18 methylmercury in marine species, even though
19 methylmercury is now being added to the
20 environment as inorganic mercury from human
21 activities.

22 The likely reason for the no

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1 evidence of increases so far, at least in
2 marine species, is that it takes a fair amount
3 of time for methylmercury -- excuse me, for
4 mercury to reach the water, then to descend to
5 various levels within the water, to go through
6 a process called methylation where it converts
7 to methylmercury, and then it works its way up
8 through the food chain to get into fish.

9 That doesn't mean that it will not
10 happen. And that methylmercury levels in
11 fish, marine species, will not in fact
12 increase. I fully expect that they will.
13 It's just that we have no evidence of it yet,
14 but I think that, quite frankly, it's
15 inevitable.

16 Just to give you a sense for how
17 much methylmercury are in commercial species
18 of fish, and this will be important later on
19 as I go through the presentations. The fish
20 with the highest levels of methylmercury have,
21 on average, about one part per million in the
22 edible tissue. Those are the long-lived,

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1 predatory fish, fish like shark, swordfish,
2 king mackerel, and a few others.

3 To give you a sense for how that
4 compares to commercial fish in general, we
5 took a look -- we did the calculation to
6 figure out what an average commercial fish
7 contains in terms of parts per million
8 methylmercury. And we did it on the basis of
9 -- we weighted for consumption. In other
10 words, because the shrimp is eaten a lot more
11 than, like, some other species, we counted
12 shrimp a little more than that we would a
13 species that's very infrequently eaten. And
14 what we came up with was that the average
15 commercial fish weighted for consumption
16 contains a little more than an order of
17 magnitude less methylmercury than at the
18 highest species, on average.

19 All fish, and all species, contain
20 methylmercury in a range; the predatory fish,
21 some are going to be over one, some are going
22 to be under, but one is your mean, and, if so,

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1 consequently all fish will either be slightly
2 over or slightly under 0.086. But that,
3 again, is the average for all commercial fish
4 weighted for consumption. I will remind you
5 of especially that bottom number, 0.086,
6 because it will be germane.

7 First of all, I want to address the
8 issue of the neurotoxicity. Methylmercury is
9 definitely a neurotoxicant. In humans,
10 neurotoxicity became extremely well
11 established as a result of some severe
12 poisoning events in the mid-part of the 20th
13 century in Japan and Iraq.

14 In Japan it was caused by the
15 dumping of industrial chemicals including
16 methylmercury into the Minamata Bay, it got
17 into fish and the levels in fish just
18 skyrocketed, probably higher than has ever
19 been seen and hopefully will ever be seen
20 again.

21 In Iraq, it wasn't from fish at
22 all. The exposure, in fact, was from eating

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1 the grain that was used to make bread, and the
2 grain had inadvertently been contaminated with
3 a fungicide containing methylmercury. So fish
4 consumption was not involved at all.

5 The exposures in those two
6 poisoning events ranged from a low of about 40
7 times average U.S. exposures to several
8 hundred times average U.S. exposures. I tend
9 to sort of round it off and say it was in
10 about the ballpark of 100 times current U.S.
11 exposures to methylmercury.

12 The general population was
13 adversely affected with neurological symptoms
14 to the point where it looked like, and in
15 fact, could reasonably be called an epidemic.

16 The symptoms ranged from the mild to severe
17 and included death.

18 And one major discovery from these
19 events was that methylmercury could be passed
20 from the mother to the developing fetus, and
21 the fetus was often much more sensitive to the
22 adverse effects of methylmercury that was the

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1 mother. The mother might be mildly affected,
2 when the child was born the discovery was made
3 that the child was now extremely adversely
4 affected.

5 It did not always work that way.
6 Sometimes, oddly, it would work in reverse
7 while the mother was significantly affected
8 and the child was only mildly affected. But
9 as a general rule the fetus was, and should
10 be, regarded as more sensitive to
11 methylmercury than an adult.

12 These events in Japan and Iraq are
13 really what continue to provide the evidence
14 of a heightened fetal sensitivity, at least at
15 extreme exposures.

16 So the question then became, for
17 researchers, well, it's their fetal
18 sensitivity at much lower exposures, the kind
19 of exposures that we might be experiencing?
20 Are people being affected at our levels of
21 exposure? And the issue of fetal sensitivity
22 is the issue that really drives the

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1 methylmercury concern in the United States,
2 and has for many years. It is not the only
3 concern with regard to methylmercury but it is
4 the big one; it is the real driver.

5 Researchers first started looking
6 for subtle effects at lower levels of
7 exposure, but they still wanted levels of
8 exposure -- they try to look for populations
9 which, certainly, were not exposed at 100
10 times U.S. levels, because those don't exist.

11 Those were just in the poisoning events. But
12 some people eat a lot of fish and, as a
13 result, normal exposures in their day-to-day
14 lives are considerably higher than average
15 U.S. exposures.

16 So researchers started looking
17 around the world for places where such
18 exposures exist because people eat a lot of
19 fish. And they found the place is like some
20 very isolated fishing villages on the coast of
21 Peru. They found the fishing Native American
22 people up in Quebec. They found populations

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1 in the Seychelles Islands in the Indian Ocean,
2 in the Faroe Islands of the North Atlantic,
3 and also some subpopulations in New Zealand
4 were the ones that were looked at first.

5 And the exposures in each one of
6 these cases were, on average, about 10 times
7 average U.S. exposures. And the way they
8 would go about doing the study -- and this is
9 germane, because virtually all studies and all
10 data that went to our risk and benefit
11 assessment come from these type of studies --
12 where they take their study population and
13 they try to compare the differences on the
14 results of neurodevelopmental tests given to
15 children who were more or less prenatally
16 exposed to methylmercury within a population.

17 In other words, they would see whether or not
18 the children who receive more exposure to
19 methylmercury did less well on the
20 neurodevelopmental tests than did the other
21 children in the study group.

22 The differences that have been

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1 found so far at these levels do not show
2 anything resembling retardation or severe
3 neurological damage. The effects that they
4 find on these tests when they do find effects
5 tend to be very, very subtle and within the
6 realm of normalcy, but nonetheless there have
7 been effects have been found in the Faroe
8 Islands and New Zealand, especially in the
9 Seychelles Islands they did not.

10 One thing that you should know is
11 that the results from the Faroe Islands most
12 specifically, and also a bit from New Zealand,
13 form the basis for current risk management in
14 the United States and virtually elsewhere in
15 the world. So risk management and evaluation
16 of risk, to this day, come from exposures at
17 those levels.

18 And that includes our risk
19 management focus which is consumer advice that
20 we last revised in 2004 for the protection of
21 the fetus and for young children. And we
22 added young children to the advice because

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1 their nervous systems are still developing
2 just as a fetal nervous system is still
3 developing.

4 The advice does not focus on or try
5 to protect folks other than that at that
6 particular level. We were looking at
7 protecting very sensitive subpopulations. The
8 general population, we have been much less
9 concerned about in terms of their sensitivity
10 and in terms of the amount of methylmercury
11 that they been exposed to, or that they are
12 exposed to.

13 The advice basically recommends
14 that pregnant women, women who might become
15 pregnant and nursing women should avoid shark,
16 swordfish, king mackerel, and tilefish. Those
17 are the commercial species with the highest
18 methylmercury on average. The average in the
19 range of about one part per million, as we
20 described previously. The advice also
21 recommends eating up to but not exceeding 12
22 ounces of a variety of fish per week.

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1 Twelve ounces represents a lot of
2 fish per week, in the United States. Ninety-
3 five percent of women of childbearing age will
4 eat below 12 ounces. Only about five percent
5 will eat, in the United States, about 12
6 ounces. We also recommend that -- and
7 remember the 12 ounces. That's another thing
8 to keep in mind. I will come back to that.

9 Our consumer advice also recommends
10 not exceeding six ounces a week, this is for
11 albacore canned tuna, because it contains more
12 methylmercury in it than light canned tuna.

13 So that is the only advice that we
14 give with regard to eating below 12 ounces.
15 The 12 ounces applies to all other commercial
16 fish.

17 We recommend that young children
18 follow this advice also, but that they eat
19 smaller portions.

20 One of the reasons why I ask you to
21 remember 12 ounces a week is so you can
22 compare it against what women of childbearing

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1 age actually eat. These are the results of a
2 recent FDA survey of over 1,000 women of
3 childbearing age all across the country. Of
4 those who were surveyed, the non-pregnant
5 women of childbearing age ate roughly about
6 three ounces of fish per week. The pregnant
7 women surveyed reduced their consumption
8 further down to about 1.9 ounces of fish per
9 week.

10 The survey implications are that
11 fish consumption is generally low in the
12 United States, but we already knew that.
13 Second, that women who eat less than 12 ounces
14 a week before pregnancy, again, about ninety-
15 five percent of women often reduce their fish
16 consumption even further when they get
17 pregnant and there are other surveys that have
18 come up with similar outcomes to confirm what
19 our survey showed.

20 A fundamental question which you
21 can ask is: Okay, so fish consumption is low
22 and women who become pregnant eat less than

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1 women who aren't pregnant. But from a public
2 health standpoint is that something worth
3 concerning ourselves about or is it just
4 perfectly okay? And that's an important
5 question, and one that we spend a lot of time
6 considering.

7 One of the reasons why we started
8 considering it, that much more after this
9 particular project started and before was
10 because since the consumption advice issued in
11 2004 and since our risk and benefit project
12 started later in that very same year a
13 considerable amount of research has been
14 published that is largely focused on the
15 effects of maternal fish consumption and the
16 results of the effects of maternal fish
17 consumption on the mother's child's neural
18 development.

19 And of these studies have focused
20 more on fish consumption than they have to
21 exposure to methylmercury. What happens to
22 the child if the mother eats more fish? If

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1 the mother eats less fish? In some of the
2 studies they measured the methylmercury levels
3 in both a mother and a child at some point,
4 but in a number of studies they were just
5 looking at fish consumption.

6 Two important features of that
7 research that I'd want to point out -- in the
8 populations that are now being studied the
9 levels of fish consumption in exposures to
10 methylmercury have been down at US levels.
11 Some of the studies have, for the first time,
12 been in the United States. Other studies have
13 drawn on rather extensive databases in the
14 United Kingdom and now also in Denmark.

15 So for the very first time, -- and
16 this did not exist when we started our project
17 -- for the very first time we have data for
18 research studies at our levels of exposure and
19 our levels of fish consumption. And I regard
20 that as incredibly important. A very dramatic
21 development, actually.

22 And, second of all, a very

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1 interesting feature of the studies was the
2 effect of the FDA-EPA consumption advice on
3 the study designs. There has been -- as we
4 have discovered, they didn't come to us and
5 ask us, they just did it, an interest in
6 reality testing the consumption advice by
7 comparing the results from those who eat over
8 12 ounces of fish against those who ate less
9 than 12 ounces of fish while pregnant in their
10 study populations to see what is the
11 consequence of eating more or less than the 12
12 ounces a week that's in our consumption
13 advisory.

14 The results, generally, are what
15 you see there on the screen. First of all,
16 the research studies are consistently finding
17 a beneficial association between maternal fish
18 consumption and neural development in their
19 children. That means, quite simply, the more
20 fish mothers ate the better the kids test
21 scores as a general rule, even though the fish
22 contained methylmercury.

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1 Moreover, when they are compared
2 between the over and under 12 ounces a week,
3 there was a consistent finding that benefits
4 tend to be higher when fish consumption is
5 above 12 ounces a week in their study
6 populations than when fish consumption is
7 below 12 ounces a week.

8 Nonetheless, --

9 VICE CHAIR BALSIGER: Tell me when
10 you finish. I'm sorry. I thought there was a
11 question period.

12 MR. SPILLER: Sorry. Okay.
13 However, that does not mean that methylmercury
14 is irrelevant to the results of these studies.

15 In fact, one of the things that the
16 researchers are consistently finding is that
17 the amount of methylmercury that is in the
18 fish and that the people are being exposed to
19 does have an effect on the size of the
20 benefit.

21 For example, there was one study
22 where there was relatively high fish

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1 consumption -- one group, a subset within the
2 study population had relatively high fish
3 consumption, but they also had not that high
4 methylmercury exposure. And their benefits,
5 their neural developmental benefits were
6 greater than those who ate about the same
7 amount of fish but they're methylmercury
8 exposure was higher because, apparently, there
9 was more methylmercury any fish that they were
10 eating.

11 So the amount of methylmercury in
12 the fish can have a bearing on the size of the
13 benefit. In our minds, it could potentially,
14 depending upon the mercury-to-fish ratio, even
15 offsets and cause an adverse effect. And that
16 was something that we were extremely
17 interested in and it's something that we
18 wanted to take a look at in our risk and
19 benefit assessment.

20 But, again, the results of all of
21 these studies collectively suggest an overall
22 effect from eating fish is the product of both

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1 a methylmercury deficit and a fish benefit.
2 And you can potentially -- and this is what
3 intrigued us and why we couldn't resist
4 leaping into it -- you could measure in
5 advance, potentially, what that net effect was
6 going to be.

7 I'm sorry. Did somebody have a --
8 MR. BILLY: So just to put it in a
9 little different words to make sure we
10 understand, your current advisory, that is an
11 advisory from a public health agency, may be
12 doing public health harm to the fetus -- the
13 child, because you are recommending that they
14 eat no more than 12 ounces a week?

15 MR. SPILLER: Are there any other
16 questions?

17 I talk about that, actually, a
18 little bit later. I don't think I get to it
19 quite the way you did. But I sort of fancy
20 dance around it a little.

21 MR. SIMPSON: Thank you, Mr.
22 Chairman.

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1 Philip, I'm trying to scroll
2 through -- I can't remember the guy's name.
3 It's a Dr. Nick something from --

4 MR. EBISUI: Ralston.

5 MR. SIMPSON: -- from North Dakota.

6 MR. SPILLER: North Dakota, that's
7 correct.

8 MR. EBISUI: Ralston Clinical.

9 MR. SIMPSON: The key problem here
10 is we're looking at methylmercury and we
11 should be looking at the synergistic effects
12 of selenium. And that based on his recent
13 research -- and I heard him present it last
14 Thursday at that brownbag lunch, stay away
15 from pilot whales and sharks, you are doing
16 good -- you should eat fish. But it's the
17 selenium not the methylmercury that we should
18 be looking at.

19 And I think, maybe, we should be
20 concentrating a lot more of our research on
21 that, that action -- the interaction of the
22 selenium.

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1 MR. SPILLER: I know Nick, and he
2 and I do stay in touch. And I find his -- I
3 encourage him in terms of the research that
4 he's doing and to keep up the work. But I'm
5 also frank with him and it is not easy, as he
6 has found out and that we have found out, to
7 design a research studies in human beings to
8 test that hypothesis.

9 It is a lot easier to do it in
10 research lab animals and a lot easier to
11 demonstrate it chemically in the lab, that the
12 interaction, chemically, between selenium and
13 methylmercury.

14 But I have told him that until he
15 can demonstrate it in humans, it becomes very,
16 very difficult for us to do anything more than
17 simply encourage his continued research.

18 MR. BILLY: Okay. I want to get
19 through the presentations.

20 MR. SPILLER: All right.

21 MR. BILLY: I'm going to -- that's
22 all right. Points of clarification? Erika.

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1 MS. FELLER: When you put up there,
2 sort of, the trends of women in general
3 decreasing their seafood consumption, --

4 MR. SPILLER: Yes.

5 MS. FELLER: -- I found myself
6 wondering, is there any information about,
7 sort of, the cultural or ethnic background and
8 are there differences between people from
9 different cultural backgrounds or different
10 geographies? Because I mean a lot of times
11 the amount of seafood you eat is a function of
12 where you are from.

13 MR. SPILLER: Um-hum. I think I've
14 seen two published studies, and then again the
15 FDA survey, which honestly was a telephone
16 survey, and it does not profess to be
17 representative of the entire United States
18 because being a telephone survey was not
19 entirely random, however, it did have a very
20 large population of people that they called.
21 So, -- and the result was basically in the
22 ballpark with what we've seen in the others.

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1 The others, I think, were -- one
2 had to do with a -- it was a survey taken by
3 Harvard researchers of people, I think, who
4 came into a clinic over an extended period of
5 time in the Cambridge area.

6 The other one was research that was
7 done at the University of Maryland. This is a
8 growing area of research. I think your
9 question is a good one. My guess is that the
10 research has been more basic than that and has
11 not gone, yet, into those kinds of
12 differences, although it probably should.

13 MS. FELLER: Okay. Thank you.

14 MR. SPILLER: It's a good point.

15 In any event, all of this -- during
16 the course of our project, certainly not when
17 we started our project, but probably about
18 midway, we finally started asking ourselves
19 this question: Given that the effect of
20 eating fish on neural development is not
21 solely controlled by methylmercury in the
22 fish, because methylmercury certainly can't be

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1 what's causing a neural developmental benefit.

2 We know it can't be the methylmercury, it's a
3 toxin.

4 We have to then ask ourselves what
5 is the overall effect. And the term we use in
6 our paper is the "net effect" of eating fish,
7 taking into account both an adverse
8 contribution from methylmercury and a
9 beneficial contribution from fish, presumably
10 from the nutrients in fish.

11 This is a relatively new question
12 for FDA. As I have indicated before, our
13 current risk management approach is based
14 primarily on the methylmercury's adverse
15 contribution to that net effect. In the
16 development of our consumer advisory and the
17 development of all of our risk management
18 strategies over the years -- and this is not
19 just in the United States but we realize this
20 is what everybody is doing worldwide. The
21 beneficial contribution from fish to the net
22 effect is not estimated. It was not estimated

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1 by us for purposes of our consumption advice.
2 Nor is the overall net effect taking into
3 account both the methylmercury contribution
4 and the beneficial fish contribution, nor was
5 that estimated by us for purposes of our
6 consumption advice.

7 The net effect might be different.

8 It might be not as adverse from the
9 methylmercury contribution. It might -- the
10 methylmercury contribution might be -- there
11 might be a countervailing force from the
12 benefit that actually means that the adverse
13 effect is reduced.

14 On the other hand, the net effect
15 could turn out to be completely neutral. No
16 health effect whatsoever, pro or con. Or the
17 net effect could turn out to be beneficial.
18 And this would depend, we figured, on
19 circumstances and would not always be the same
20 depending upon what you eat or what type of
21 fish you ate.

22 The fact that we did not look at

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1 these things at the time that we developed our
2 consumption advice basically reflects the
3 state of data as of early 2004, because at
4 that point research studies were really only
5 looking for associations between methylmercury
6 and neural development at not only -- and not
7 for associations between fish consumption,
8 whatever it may be, and neural development.
9 And there's the difference.

10 An association with fish
11 consumption would be treating fish more as a
12 package that contains methylmercury but also
13 beneficial nutrients. And that research
14 really did not start -- or at least in terms
15 of appearing in the published literature,
16 until after we issued our consumption advice
17 in 2004.

18 The current risk management
19 strategy of simply looking at the
20 methylmercury contribution to the net effect
21 also reflects the approach, what we call the
22 safety assessment approach to evaluation of

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1 risk, that was so concerning to a number of
2 scientists and managers at FDA from the early
3 days. Where in the safety assessment,
4 generally, what you are trying to do is come
5 up with a single level of exposure to the
6 adverse substance in question, in this case
7 the methylmercury, a single level of exposure
8 that is sufficiently low that it can be deemed
9 to be without appreciable risk. And you
10 assume that if people are exposed to at or
11 below that safety assessment level, -- we will
12 deem them to be without appreciable risk.
13 We have not actually measured that risk, we
14 have not actually estimated, we are going to
15 deem them to be without appreciable risk.

16 If they are above -- exposed above
17 the safety assessment level, the safety
18 assessment itself, the process of safety
19 assessment, does not estimate what the risk
20 is. Those who are exposed above, safety
21 assessment cannot tell you whether their risk
22 is substantially different than those who are

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1 exposed at or below.

2 The nickname that I have given it
3 is that if you are above you are in the "no
4 opinion zone." The safety assessment
5 literally has no opinion on that subject
6 because it just does not estimate. That, to
7 me, is a shortcoming of safety assessment for
8 purposes of managing risk for methylmercury,
9 because there are people in the United States
10 who are exposed above safety assessment level,
11 and we don't know the risk.

12 If you -- by the way, just as a
13 piece of information -- because of this is
14 something that you probably have heard and I'm
15 sure you're going to hear again: You're going
16 to hear that some number of babies, some
17 number of thousands of babies are born every
18 year in the United States at risk of
19 neurological harm.

20 The term "at risk," what that
21 actually means is that those are the number of
22 babies who are born to mothers who are exposed

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1 somewhat over a safety assessment level. In
2 other words, their exposure is in what I would
3 call the "no opinion zone."

4 You can judge for yourself whether
5 or not at risk and no opinion might be the
6 same thing to you. They do not, frankly, in
7 the same thing to me. When I think about at
8 risk, I think that there is a significant risk
9 that is unacceptable and that something needs
10 to be done about it. And I think that's the
11 way people react to it. I don't know if
12 there's any survey research that's ever been
13 done on this, but I think that would be normal
14 human reaction to that term.

15 The fact is that the risk to those
16 people was not estimated by safety assessment.

17 And that to me was one of the big holes in
18 our understanding that generated this project,
19 because we wanted to fill in that gap, we
20 wanted to get a much clearer picture of risk
21 at, below and especially above via safety
22 assessment levels that exist for methylmercury

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1 in the United States and in the world.

2 The Environmental Protection Agency
3 has got one called the reference dose, FDA has
4 got one also called the acceptable daily
5 intake level. And we wanted to understand our
6 own -- the effect of eating above our own
7 level and the effect of eating above other
8 levels that have been established by other
9 agencies.

10 In 2006 a panel of the Institute of
11 Medicine of the National Academy of Sciences
12 decided roughly the same thing, that it was
13 time for a change -- that safety assessment
14 was no longer adequate, and that just looking
15 at the methylmercury contribution to the net
16 effect was no longer sufficient. And so,
17 consequently, the Institute of Medicine issued
18 a report called *Seafood Choices, Balancing*
19 *Benefits and Risks* that went on for many
20 hundreds of pages and covered a lot of ground,
21 but also made these statements, specifically,
22 that new tools apart from traditional safety

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1 assessment should be developed focusing on
2 risk benefit analysis, a better way is needed
3 to characterize the risks combined with the
4 benefits.

5 This is, by the way, a study
6 conducted by the National Academy of Sciences
7 that was requested and supported largely by
8 the National Marine Fisheries Service, and we
9 thank them for that. To this day, I think
10 that they -- we developed a lot of insight
11 with the -- the Academy said a lot of good
12 things that were important, and especially
13 this.

14 And it is always nice -- and you
15 always have to agree with the National Academy
16 whenever they agree with you. And as it
17 turned out in 2006 we went, 'Holy cow, we have
18 actually started doing this.' So it was --
19 from our standpoint, very supportive and
20 encouraging and made us feel a little bit
21 better, that maybe we were at least attempting
22 to head down a track that other people

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1 thought, aside from ourselves, was important.

2 Whoops, I think I might have jumped
3 -- I might have skipped one.

4 What I would like to do is describe
5 briefly -- and then I'm going to skip a bunch
6 of rather technical slides, but this will give
7 you the gist of it -- our approach to modeling
8 what, again, what I have called the "net
9 effect" for fetal neural development.

10 We wanted -- and these are our
11 three completely separate risk assessment
12 estimates. The first estimate, we wanted to
13 estimate the methylmercury contribution to the
14 net effect as if fish had nothing to do with
15 it. There was no way that the benefits from
16 fish could adversely affect or reduce in any
17 way the toxic methylmercury contribution. We
18 wanted to know what it was in its purest form.

19 And my, sort of, fantasy hypothetical, the
20 way I explain it is imagine that you eat no
21 fish ever again as long as you live, but every
22 morning you wake up and you pop a

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1 methylmercury pill. This would be the
2 methylmercury contribution to the net effect.

3 It's the best way I know how to explain it.
4 So constantly what we were trying to do was
5 look for data on a methylmercury where fish
6 was not involved. And, in fact, we did find
7 such data.

8 The second thing we wanted to do
9 was estimate the beneficial fish contribution
10 to the net effect. That is a little bit more
11 difficult to do because all fish contain
12 methylmercury, so it's very hard to find what
13 the fish contribution would be without
14 methylmercury.

15 We were able to come, I think,
16 reasonably close, but there is still -- in the
17 data we used, which came from England, there
18 was still methylmercury in the fish. So we
19 probably are low-balling the beneficial
20 estimates somewhat, probably not too much, but
21 a little bit, because it probably was
22 confounded by methylmercury to some extent.

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1 We just have to live with that. There are
2 always going to be uncertainties and risk
3 assessment and you just have to be transparent
4 about them and accept it, and if you get
5 better the next time around you do it again.

6 The third thing that we did was we
7 took the estimate of methylmercury
8 contribution and the estimate of the
9 beneficial fish contribution and we combined
10 them in an assessment to estimate the overall
11 net effect. I have got several slides which
12 go into some detail on each one of those
13 three. I'm going to bypass them and give you
14 some time back. And what I'm going to do is
15 go to the net effect punch line.

16 MR. BILLY: Bill, you have got
17 about 15 minutes.

18 MR. SPILLER: Okay. That's about
19 all I need. And these are just slides that
20 I'm skipping.

21 Okay. These are the results from
22 our net effect neural developmental modeling.

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1 And we modeled it several different ways, and
2 I'm going to give you a number of different
3 results which, hopefully, collectively, will
4 paint a picture for you.

5 The first thing we wanted to do was
6 measure the net effect in the United States of
7 what we call "baseline." Baseline is simply
8 what women of childbearing age are eating in
9 terms of the amount and types of commercial
10 fish and what their exposure is to
11 methylmercury. Some eat less fish -- well,
12 most eat less fish, some eat more fish, some -
13 - many eat fish that are low in methylmercury,
14 some eat fish that are higher in
15 methylmercury.

16 So the data actually -- there is a
17 bit of a lag. This was what we ended up
18 taking a look at, because this was the best
19 data we could get at that time, we're
20 upgrading it, was 2005 data. So this is what
21 was going on as of 2005, and, again, when we
22 finalize the report, we will update it.

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1 Here are the net affect results:
2 What we found was that about 99 percent of
3 children born to women in the United States
4 probably experience a net benefit, similar to
5 but slightly smaller than the fish beneficial
6 contribution. You did not get to see what
7 that was because that was in a previous slide.

8 But the unit of measurement that we
9 devised for this project, with the assistance
10 from some of our expert peer reviewers, was a
11 neurological effect that would be the size of
12 an IQ point. Actually, I'm not saying that
13 right. What I mean to say is that the size of
14 the neurological effect is compared to the
15 size of IQ effect.

16 So if we had a neurological effect
17 that is very, very small, for example, we
18 would estimate it as being -- and this is what
19 we did, we would calculate it as being, say,
20 at two hundredths of an IQ point. It would be
21 the size equivalent as if you had lost or
22 gained two hundredths of an IQ point, or it

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1 could go up higher. It could go, actually a
2 size being over an IQ point. It could be the
3 equivalent in size of a gain or loss one or
4 two or three or four IQ points. And the
5 reason why we chose IQ to compare the results
6 to this because everybody has a general
7 understanding of what IQ is.

8 Some of the other terminologies
9 that we came up with, our peer reviewers said,
10 "Well, some of us may understand this, but
11 very few people will. You have got to come up
12 with a better unit of measurement." So we
13 came up with, basically, we compared
14 everything to the size of an IQ effect.

15 The 99 percent are probably
16 experiencing an effect that would be somewhere
17 within -- somewhere less than a single IQ
18 point. The better -- but for a number of
19 them, beyond around the 95th percentile -- or
20 not -- the last five percent of people, the
21 people who are eating the most, five percent
22 who were eating the most fish would probably

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1 experience a benefit that would actually
2 exceed one IQ point and that could go as high
3 as two to three to four to five IQ points in
4 the extreme.

5 However, the better part of one
6 percent of the population would probably
7 experience no net effect whatsoever. The risk
8 and the benefit for them would balance out.

9 One tenth of one percent of the
10 population probably are experiencing a net
11 adverse effect, but the methylmercury effect
12 for them is exceeding the beneficial fish
13 effects and resulting in an adverse
14 neurological effects equivalent in size to
15 about four one-hundredths of an IQ point loss.

16 We then came up with another way of
17 looking at it, which we nicknamed the
18 "modified baseline." And sometimes things
19 happened serendipitously. We kind of the
20 blundered into this modeling almost by
21 accident, but then when we took a look at we
22 went, hmm, this is interesting. Maybe we're

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1 learning something from this, and so we kept
2 it.

3 In the modified baseline -- this is
4 a hypothetical situation. One of the fun
5 things about risk assessment modeling is you
6 can reinvent the world. It's just whenever
7 hypothetical you want and all of a sudden
8 that's the way the world becomes for you in
9 your modeling.

10 In this reinvention of the world,
11 women of childbearing age experience actual
12 exposures to methylmercury, the very same
13 exposures that they are currently experiencing
14 at baseline, but they eat only fish that are
15 low in methylmercury that have the -- that
16 contained the average amount of methylmercury
17 for commercial fish.

18 Remember that number of the 0.086
19 parts per million, which means that in order
20 to achieve the same exposures as they now have
21 a lot of them would have to be eating a lot
22 more fish. So they're getting the same

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1 exposures to methylmercury, but they are only
2 getting it through eating low methylmercury
3 fish, equivalent to what is in the average
4 fish.

5 The results are interesting.
6 Through the 99.9th percentile of fish
7 consumption, which means that -- what 99.9
8 percent of everybody eats, the net effect is
9 beneficial and just goes up. And when you get
10 that high, to the highest percentiles of this
11 consumption, the benefits are in the multiple
12 IQ point size range. They are no longer at a
13 fraction of an IQ point, they are higher than
14 that, as we say in the second bullet. The
15 most benefit is equivalent in size -- well, it
16 -- no. Like I said, the most benefit is
17 associated with the highest levels of the fish
18 consumption, exposure to methylmercury through
19 the 99th percentile, it exceeds a point.

20 So, consequently, what happens is
21 that as exposure to methylmercury goes up --
22 this is -- it's sort of counterintuitive when

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1 you first think about it. As exposure to
2 methylmercury goes up, the IQ benefit is going
3 up. And the IQ benefit is going up because
4 people are eating more and more and more fish,
5 where the benefit exceeds the deficit because
6 the fish are low methylmercury fish, because
7 they average 0.086 parts per million. I
8 cannot emphasize that enough. That is the big
9 difference between the modified baseline and
10 the baseline.

11 At baseline you have got this
12 adverse effect in a small segment of the
13 population, and the best explanation we can
14 come up for it is these are people that are
15 focusing on very high methylmercury fish.

16 This is the difference: When you
17 don't eat a lot of high methylmercury fish and
18 you are down around the average, you do -- you
19 no longer see an adverse effect, at least in
20 our modeling.

21 We modeled a number of what we call
22 "what-if scenarios." And I will try to run

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1 you through these as quickly as I can, because
2 they really do help fill in the picture.
3 Again, these what if scenarios are just
4 hypothetical inventions; what if people did
5 this? What if people did that? And what we -
6 - what you are going to see here in the slide
7 our population shifts and neural development
8 stated as equivalent to size of a certain
9 amount of IQ shift.

10 And the first thing we wanted to do
11 was we wanted to know what is going on at
12 baseline before we make any hypothetical
13 shifts. And we wanted to know whether or not
14 as a consequence of eating fish in the United
15 States average neural development, as
16 represented by test scores and IQ, is better
17 than it would be if women ate no fish. And
18 our estimate from our assessment is that
19 baseline of eating fish is better than eating
20 no fish, and that is equivalent in size to
21 about a quarter of an IQ point, roughly.

22 Again, the entire mean IQ of the

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1 United States is higher by about a quarter of
2 an IQ point as a consequence of eating fish.
3 And that is our estimate.

4 So, consequently, the next four
5 hypotheticals are what happens to that
6 baseline quarter of an IQ point as a result of
7 eating more or less fish and of eating
8 different types of fish. In the first one,
9 women do not exceed 12 ounces a week, but they
10 could eat less than 12 ounces a week. In
11 other words, for 95 percent of women who
12 already eat less than 12 ounces, they just
13 keep doing what they're doing. And the only
14 shift in the population, the only change, are
15 the five percent of women who are eating above
16 12 ounces a week, they have got to come down
17 to precisely 12 ounces a week.

18 So the question is: What does that
19 do to the national IQ average? And we see
20 that it declines slightly, by 100th of an IQ
21 point below baseline. And that is simply
22 caused by a decline of five percent of the

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1 population making a shift in downward, in the
2 amount of fish they eat.

3 In the second hypothetical, -- and
4 you're going to like this from a fisheries
5 management standpoint, this will drive you
6 nuts -- all women of childbearing age eat
7 exactly 12 ounces of fish per week.

8 Now since we know that -- as we saw
9 that most people are eating somewhere around
10 three ounces and less per week, getting
11 everybody to eat up to 12 ounces of fish per
12 week means -- it raises some serious issues
13 about fish supply. But in our hypothetical we
14 don't worry about things like that, that's
15 your problem, not ours. Everybody is eating
16 exactly 12, which means that 95 percent have
17 to come way up in their fish consumption, only
18 five-percent decline. And what we saw was the
19 most significant increase in neural
20 development of a baseline of any of our
21 hypotheticals. What we saw was a population
22 shift above that .225 IQ point at baseline and

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1 it increased by 0.57. In other words, it
2 increased by over half an IQ point in size of
3 effect.

4 MR. BILLY: Bill, you've got about
5 five minutes.

6 MR. SPILLER: All right. That's
7 because of the substantial increase in
8 consumption.

9 In the next two we fiddled around
10 with both how much they eat and how much
11 methylmercury was in the fish. The women do
12 not exceed 12 ounces of fish, but can eat
13 less, but all fish that they eat are low in
14 methylmercury and, at this point, we're
15 slightly above average, were at 0.12 ppm.

16 This is sort of the consumer
17 advisory on steroids, because it's much more
18 stringent. In the consumer advisory women are
19 allowed to eat fish that exceed 0.12 parts per
20 million, but they're not allowed to eat over
21 12. So this is actually more stringent in
22 terms of the amount of methyl mercury in the

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1 fish. It is more protective than the current
2 consumer advisory. And we saw that the size
3 of the average benefit, in fact, declined
4 slightly. It is an extremely small decline,
5 but it is a decline nonetheless.

6 What we did in the last
7 hypothetical was retain the amount of
8 methylmercury in the fish. We retained that
9 limitation. They could only eat fish that had
10 0.12 parts per million. But we completely
11 took off the limits on the consumption, and
12 that they could eat as much as they wanted, or
13 as much as they currently do. And there we
14 saw a major change in there the size of the --
15 we saw an increase in benefits above baseline.

16 So, as a general rule, the more
17 fish you eat the more benefit you get. But,
18 again, it depends upon how much methylmercury
19 there is in the fish. There is that
20 relationship between the amount of fish you
21 eat and the amount of methyl mercury in the
22 fish that is determinative of whether or not

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1 you get a benefit or whether you do not.

2 I'm going to do coronary heart
3 disease and stroke at a very rapid rate.

4 We also looked at these in the
5 terms of what is going to be the effect of
6 eating fish on the risk of fatal heart disease
7 and fatal stroke in the general population of
8 the United States.

9 We did not attempt in this one,
10 unlike neural development, to measure a
11 methylmercury contribution to the net effect.

12 And the reason why we didn't do that this
13 time around is because the data for
14 methylmercury being a risk factor for coronary
15 heart disease and stroke is not robust. There
16 are data, but it is -- the data are
17 conflicted, they are contradictory, they go a
18 number of ways. And, in fact, there are only
19 a small number of studies that are available
20 to us. And the studies -- each one of the
21 studies has got issues associated with it.

22 On the other hand, the number of

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1 studies that looked at fish as a package and
2 tried to measure what was the consequence of
3 eating fish on coronary heart disease and
4 stroke it's -- comparatively speaking, it is
5 off the chart. You have got studies from all
6 over the world. You have got literally
7 hundreds of thousands of study participants.

8 And you can assume that the fish
9 are a package in the sense that they contain
10 methylmercury and they contain beneficial
11 nutrients. And so, consequently, they at
12 least give you a sense for whether or not
13 methylmercury is a significant risk factor in
14 -- by causing fish to be risky or not, for
15 coronary heart disease and stroke.

16 And so, that's what we decided to
17 do. We decided to assess the relationship
18 between fish consumption and coronary heart
19 disease and stroke. And that's the question
20 that we asked; is that having -- this is it
21 averting, causing or having no effect on CHD
22 and stroke deaths per year?

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1 And here is the punch line.

2 And I think it's dramatic, but I
3 was not terribly surprised by it because I am
4 aware, I've read through the research studies
5 that exist on this, and they do really go very
6 largely in this direction.

7 Our coronary heart disease model
8 estimates that fish consumption in the United
9 States today is averting somewhere in the
10 vicinity of 30,000 deaths per year. In
11 stroke, we're looking at about 20,000.

12 We do have a caveat in that one of
13 the models shows the small possibility of some
14 number of deaths caused by fish consumption at
15 one tail of the -- of what is called the tail
16 of the distribution. But it doesn't really
17 tell us why. It doesn't tell us whether or
18 not that is genetic or whether it is caused by
19 eating fried fish versus broiled fish or
20 whether it is caused by some risk factors
21 having to do with lifestyle or that sort of
22 thing. But what it does is give us pause that

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1 this is something that we ought to look at in
2 the future. It does not predict the cause.

3 I won't give you a summary. I
4 assume you have got it all. You've got it.

5 Just to give you the next steps
6 really quickly, we are in the process right
7 now of reviewing the hundreds of public
8 comments that have come in and, to this day,
9 still come in. And we still, like I said,
10 welcome them. We are going to revise on the
11 basis of the public comments.

12 Plus we went back to our original,
13 outside-the-government expert peer reviewers.

14 We've said we changed the draft so much since
15 the first time you looked at it, we're going
16 to let you look at it again and give us
17 another round of comment. They did that, and
18 so we're now wading through the public
19 comments and our peer review comments.

20 We're not going to be done after
21 that. We are going to retract and then submit
22 it all one more time for comments to our Food

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1 Advisory Committee. And that that will be a
2 public meeting, and I'm sure it will be an
3 event.

4 We will then revise on the basis of
5 the comments that we receive from them. We
6 will undoubtedly go through another round of
7 interagency review. We will then, presumably,
8 finalize the drafts.

9 And only then -- and this is an
10 important consideration, because I think there
11 has been a tremendous amount of
12 misunderstanding on this point: because only
13 then will we sit down and review whether or
14 not we need to make any adjustments whatsoever
15 in our risk management strategy.

16 People are constantly asking, well,
17 but you are showing some new change in policy
18 in your documents. And the answer is no,
19 we're not. This is a -- it's a risk
20 assessment. It is going to inform future risk
21 management decision-making as well any number
22 of other things, but there is no change in the

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1 current advisory there and none currently is
2 contemplated. All of that, whether or not it
3 would be changed or never changed, is a matter
4 that's down the road.

5 And, hopefully, I'm not too far
6 over. So, I thank you for your time today.

7 MR. BILLY: Thank you very much.

8 I'd like to provide opportunity for
9 members of the Committee to ask questions,
10 comments.

11 Randy.

12 MR. CATES: I'd first like to say
13 it was a really informative talk. It
14 surprised me that some of the numbers I saw up
15 there seemed really low in consumption. Ed
16 would probably agree that in Hawaii our
17 consumption is much higher which explains why
18 people from Hawaii are a bit smarter than
19 others.

20 (Laughter.)

21 MR. SPILLER: As in they're in
22 Hawaii and we're not.

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1 MR. CATES: I have a couple
2 questions. The first one is I think it's real
3 important for outreach from the FDA on these
4 results. How will you do that? And an
5 example I would give, my wife's physician on
6 our two sons at birth completely advised of no
7 consumption of fish during pregnancy and
8 afterwards.

9 And only because I'm in the
10 industry did I start pulling out some of this
11 data. I had to really lay it on the table, so
12 I think it's real important for outreach.

13 The other question is: Can an
14 adult body flush mercury or is it once you
15 have it in there it stays there?

16 And the third question is: Does
17 NOAA or the FDA have a testing program for our
18 fisheries so we can actually get a government
19 agency to test and find out the levels?

20 MR. SPILLER: Let's see, first of
21 all, I share your concern about medical
22 advice. My wife is a doctor and so she is

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1 constantly coming back and telling me about
2 what she hears from other physicians. And how
3 we handle outreach is I think at this stage a
4 somewhat delicate matter.

5 I mean we are interested in the
6 results of this work being known. On the
7 other hand, the results are entrapped and so
8 consequently I don't want to go around mis-
9 communicating or having people think that this
10 is some kind of final government assessment
11 and this is simply the way it is. And so I
12 think it's a delicate matter and we have to
13 figure out -- and I agree with you, though,
14 that I think we need to do a better job than
15 we have.

16 I'm sorry. What was the second
17 question?

18 MR. CATES: Can our bodies get
19 flushed out?

20 MR. SPILLER: Yes. Methylmercury
21 has a half life of about 45 to 50 days, so if
22 we all stopped eating fish right now we would

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1 simply start shedding methylmercury over time.

2 So that is true.

3 And in terms of a testing program,
4 yes, the Food and Drug Administration has a
5 testing program that it's had for many years.

6 And, as a matter of fact, the results of
7 those tests, we're talking about levels of
8 methylmercury at least in commercial species
9 of fish has been augmented from time to time
10 with important data that we've received from
11 the National Marine Fisheries Service and from
12 NOAA, so it's been a good partnership in that
13 regard.

14 I can't off the top of my head give
15 you the website for where our database can be
16 located, but we have it posted on the web.
17 We've had it up for years actually. And every
18 year we take more samples and we try to fill
19 it out a little more.

20 MR. CATES: One quick follow-up.
21 That's the first time I've ever heard of a
22 half life. I think that's a huge, huge piece

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1 of information for the public that would calm
2 a lot of fears. I think this information is
3 actually going to make our job harder, it's
4 going to increase demand.

5 MR. BILLY: Ed, you had your hand
6 up earlier.

7 MR. EBISUI: Earlier I wanted to
8 make a comment about -- there was a question
9 or a comment from I believe it was Erika about
10 cultural practices. And I wanted to ask Phil
11 if that -- my recollection is that the Faroe
12 Island study, one of the studies that sounded
13 the alarm about mercury, I think down the road
14 it was discovered that the high levels of
15 mercury was because of pilot whale
16 consumption. Was that the study?

17 MR. SPILLER: Yes. It was not down
18 the road. I mean they were very upfront about
19 it, that they do eat a lot of pilot whale or
20 at least they did at the time. I don't know
21 whether they still do. And they ate fish
22 also, so it was essentially a combination.

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1 So the consequence is that the
2 effects that they were seeing in the Faroe
3 Islands were not clearly the result of the net
4 effect of simply eating fish and having the
5 benefits do what the benefits do and the
6 methylmercury efforts do what the
7 methylmercury effects do as a consequence of
8 fish consumption. And this I think is one of
9 the significant differences between the Faroe
10 Islands study and the study of the Seychelles
11 Islands where the methylmercury exposures were
12 about the same, they were about ten times
13 higher than they were in the United States,
14 but in the Seychelles the results were solely
15 from fish, they ate no pilot whale.

16 In the Faroe Islands you're getting
17 much more of a methylmercury effect and much
18 less of a beneficial fish offset as a
19 consequence of high consumption of pilot whale
20 in that study population, because pilot whale
21 simply did not contain the same types and
22 amounts of nutrients as the fish that they

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1 were eating do. So that is true.

2 MR. EBISUI: One more, please. And
3 didn't the Kaneko and Ralston studies show the
4 ratio of selenium to mercury in pilot whales
5 were disproportionate, much higher mercury
6 than selenium?

7 MR. SPILLER: They did.

8 MR. EBISUI: They did. As opposed
9 to like the larger pelagic fish, the common
10 commercial fish where you have mercury levels
11 which are exceeded by selenium levels.

12 MR. SPILLER: Correct.

13 MR. BILLY: Tom.

14 MR. RAFTICAN: Thanks, Phil, for
15 the presentation. You talked and focused on
16 commercially-caught fish and I just have a
17 couple of questions relating to applicability
18 and coordination with EPA on recreationally-
19 caught fish.

20 I know that the FDA issued a joint
21 advisory with EPA I think somewhere back
22 around 2004. I just question the degree to

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1 which you think that these results here might
2 be applicable or not for recreationally-caught
3 fish given differences in concentrate and
4 catch and consumption behaviors, and whether
5 EPA has been a party to this effort and
6 whether you would anticipate further joint
7 action with EPA?

8 MR. SPILLER: The advisory is a
9 joint advisory. I mean it's used to simply
10 contain advice about essentially commercial
11 fish. And the concern back in 2004 was
12 consumers distinguishing commercial fish from
13 other fish. For a lot of people fish are
14 fish.

15 MR. RAFTICAN: Well, and at that
16 time there were different standards as well.
17 Weren't there different risk levels applied
18 between EPA and FDA?

19 MR. SPILLER: Not really. That
20 would take me about a week.

21 (Laughter.)

22 MR. SPILLER: The point being that

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1 it was felt at the time in 2004 that an ideal
2 consumer advisory would contain advice both
3 with regard to commercial species of fish and
4 with regard to noncommercial species of fish.

5 And so, consequently, if you take a look --
6 and I admit my slide did not include that, but
7 it also -- because I was focusing on the FDA
8 end of it and the commercial species end of it
9 which is our jurisdiction -- the consumer
10 advice contains both advice with regard to
11 commercial species and with regard to
12 noncommercial species and simultaneously
13 became a joint advisory.

14 Our view is that there may
15 potentially be significant differences between
16 commercial species of fish and how they are
17 generally consumed by people and the types of
18 fish that would be consumed recreationally and
19 from subsistence fishing which would tend to
20 emphasize very localized kinds of conditions,
21 localized what types of fish to what was in
22 those fish, how much methylmercury, how much

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1 of beneficial nutrients were in those
2 particular types of fish, and the extent to
3 which the people in that area were at least
4 emphasizing those types of fish, the localized
5 fish in their diet or whether that was just a
6 small part of the diet and they were also
7 eating commercial fish.

8 So for all of those reasons we came
9 to the conclusion that localized conditions
10 like that probably warrant their own
11 individual assessments. And that's why we
12 made our assessment on commercial fish
13 essentially a nationally-representative
14 assessment. And we said that extremely
15 regional and localized assessments really have
16 to be left to another day because they involve
17 potentially unique and very localized sets of
18 considerations that would not apply on a
19 national basis.

20 MR. RAFTICAN: So just the last
21 part of my question: Has EPA then not been
22 involved in this as a collaborator at all?

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1 MR. SPILLER: We briefed EPA a
2 couple of times at the beginning and during
3 the course. On a couple of occasions we asked
4 them some questions, but we were basically
5 focusing on human food safety of commercial
6 fish, which is essentially an FDA
7 responsibility. So the question was can we
8 meet our own responsibility, and the answer
9 is, yeah, we thought we could.

10 Where EPA was heavily brought in,
11 most heavily brought in, aside from the fact
12 that they were briefed and informed along the
13 way was in what I referred to at the beginning
14 of the presentation as interagency review. I
15 focused, because of the audience, on NOAA's
16 participation, but I also mentioned that the
17 other agencies involved were EPA, CDC, and
18 NIH.

19 I can tell you that we have
20 received, as part of the public comment,
21 comments from one division within an office
22 within EPA. And we are studying those

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1 comments very closely. And they will get
2 another whack at it after that, as will NOAA
3 also.

4 MR. RAFTICAN: Thank you.

5 MR. BILLY: Bill.

6 MR. DEWEY: Phil, earlier this
7 month there was a USGS study that was released
8 that showed an increase over approximately the
9 last decade in the North Pacific an increase
10 in mercury levels in seawater of about 30
11 percent. And there's some controversy at
12 least in the press around it because they
13 weren't looking at actual seafood, they were
14 looking at seawater. And apparently there was
15 an earlier study that showed there hasn't been
16 an increase in mercury levels at least in tuna
17 over a 27-year period of time. And I'm
18 curious if you can comment on that. Why we
19 might be seeing an increase in seawater but
20 not in fish.

21 MR. SPILLER: I think you're seeing
22 an increase in seawater. I'd be amazed if you

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1 didn't, frankly. Just a personal opinion.

2 MR. DEWEY: Right.

3 MR. SPILLER: And I think you do
4 because of all of the human activity there is
5 now, especially coal-fired power plants that
6 are sending mercury into the atmosphere and a
7 lot of it settles into the water. But the
8 reason why I think that you're seeing an
9 increase in seawater that we, and based on
10 admittedly limited data, have not yet seen an
11 increase in methylmercury concentrations in
12 marine species is because it takes some amount
13 of time, potentially a significant amount of
14 time -- although that's subject to scientific
15 debate -- between the time that the mercury
16 enters the aquatic environment, basically
17 sinks to a very low level in the ocean, goes
18 through a process called methylation where it
19 transforms from mercury, inorganic mercury
20 into organic methylmercury, and then slowly
21 works its way back up through the aquatic food
22 chain to the point where it's taken in by fish

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1 like tuna. My own feeling is that what you're
2 seeing is a time lag.

3 MR. DEWEY: So based on your
4 understanding then we do have something to be
5 concerned about, but it's a while down the
6 road yet? It doesn't --

7 MR. SPILLER: I don't know how far
8 down the road. That is subject to debate, but
9 --

10 MR. DEWEY: But you're going to
11 start to see it increase in seafood --

12 MR. SPILLER: -- we haven't seen it
13 yet, at least in the data that we have. It is
14 my personal opinion that it is inevitable. I
15 just don't see how we could be doing what
16 we're doing, we, humanity, in terms of the
17 amount of mercury that is being pumped into
18 the atmosphere and into the aquatic
19 environment without at least at some point
20 down the road increases and potentially
21 significant increases in the amount of
22 methylmercury in marine species of fish.

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1 I mean I think you probably already
2 see that, although FDA would not have the data
3 for it. And in enclosed bodies of water, fish
4 in enclosed bodies of water in lakes and
5 rivers and that sort of thing, I would expect
6 that those levels have been already affected.

7 I'd be amazed if they haven't.

8 MR. DEWEY: Thank you.

9 MR. BILLY: Okay. Two more quick
10 questions and then I'm going to close it out.

11 I remind everyone that at the Commerce
12 Subcommittee meeting this afternoon Phil will
13 be available and we will have an opportunity
14 to dig into this more and determine what MAFAC
15 would like to recommend or react to what
16 they've learned this morning.

17 So, first Dave.

18 MR. WALLACE: I was wondering is
19 the half life in humans of 45 to 50 applicable
20 to fish also?

21 MR. SPILLER: I don't know.

22 MR. WALLACE: Well, that's good.

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1 MR. SPILLER: I have no idea.

2 MR. WALLACE: If it is then as the

3 --

4 MR. SPILLER: I think they just
5 keep taking it in.

6 MR. WALLACE: As long as they don't
7 accumulate it then the level may increase but
8 it's not going to increase a great deal.

9 MR. SPILLER: Only because they're
10 shedding it as they -- I suspect that it will,
11 just my own best guess on it is that I think
12 that we will see potentially significant
13 increases down the road. I think it's coming.

14 MR. BILLY: Okay. Martin.

15 MR. CATES: Increases of?

16 MR. SPILLER: Levels of
17 methylmercury in commercial species of fish.
18 I just don't know, I mean I've seen one
19 estimate where, I mean this is like a modeling
20 estimate where people tried to model how long
21 it would take from the time that it entered
22 the aquatic environment to the time that it

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1 was picked up by fish, and the estimate was as
2 high as several hundred years.

3 Now there have been other estimates
4 that are quite a bit different, so I can't
5 possibly pass judgment on those estimates. I
6 just think that it will happen eventually.

7 MR. BILLY: Martin.

8 MR. MARTIN FISHER: Phil, thanks a
9 lot for coming today. You did a great job.
10 My question relates to mariculture
11 aquaculture. It's my understanding that the
12 way that tuna get to be carriers of the
13 mercury is they eat a large amount of forage
14 fish and the forage fish have a lot of
15 interaction with enough mercury.

16 So if the food base for open-pen
17 fisheries is going to be wild stock like
18 herring or menhaden or whatever forage fish
19 that is going to be captured for processing
20 for fish meal, aren't we kind of going in the
21 wrong direction in terms of implanting into a
22 new food service a high level of

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1 methylmercury?

2 MR. SPILLER: The food source being
3 what you're feeding the fish meal to?

4 MR. MARTIN FISHER: Right.

5 MR. SPILLER: If there was --

6 MR. MARTIN FISHER: And let me just
7 give another thing to that. Through the
8 processing process of fish meal, methylmercury
9 also is released and sometimes is introduced;
10 is that not correct?

11 MR. SPILLER: What I can tell you
12 is that there was a study, I'm trying to
13 remember what country was in it, it might have
14 been Sweden, it was one of the Scandinavian
15 countries, where they were puzzling over the
16 phenomena of people claiming to eat no fish
17 whatsoever, some percentage of their
18 population, and yet they had methylmercury in
19 their systems. And where did that come from?
20 How could that be?

21 And the best explanation they were
22 able to come up with is it came from the fish

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1 meal that were being fed to terrestrial
2 animals, chickens and that sort of thing, and
3 that they were getting -- these were very
4 small amounts of methylmercury the people had
5 in their systems, very low, but nonetheless it
6 was like where is this coming from. And that
7 is what they came up with, is it must be
8 coming from the fish meal.

9 MR. MARTIN FISHER: Is that an
10 answer to my question?

11 MR. SPILLER: I think so. It's the
12 best I got.

13 MR. BILLY: All right. I'm going
14 to move on.

15 Thank you, Phil. Thank you very
16 much.

17 The next item is a follow-on from
18 Tim Hansen, who will -- oh, I'm sorry -- a
19 break.

20 (Laughter.)

21 MR. BILLY: I just got pinched.
22 Not so wound up about this. A break. Let's

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1 take a quick, 15-minute break.

2 (Recess taken from 10:30 a.m. to
3 10:51 a.m.)

4 MR. BILLY: Okay, I think we'll get
5 started. See how much more you appreciated
6 the break when you thought we weren't going to
7 get one?

8 Alright. Next we have Tim Hansen.

9 A couple of meetings ago for a variety of
10 reasons Tim came to MAFAC and made a
11 presentation, an initial presentation to talk
12 about the work that NOAA does in seafood
13 safety and quality, the Voluntary Inspection
14 Program, and other related matters.

15 At the last meeting we also had the
16 opportunity to have a speaker from FDA who
17 shared some of the things that were going on
18 in FDA related to this same area of seafood
19 safety and quality.

20 MAFAC asked NOAA Fisheries to
21 develop a strategic plan that would take
22 account of the changes that were going on at

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1 the federal level in this broad arena as well
2 as the policies and approach that NOAA felt
3 was most appropriate given these things,
4 looking to the future.

5 So with that I'm going to turn it
6 over to Tim and he can share with us where
7 they stand on their strategic plan and other
8 related considerations.

9 Tim.

10 MR. HANSEN: Okay. Thank you, Mr.
11 Chairman. We have developed a plan which we
12 think has all the elements that NOAA needs to
13 have in place to properly address seafood
14 safety. I've got to tell you it probably
15 needs a little editing, and we promised our
16 senior leadership to get it in the final form
17 within a month or so, but I think for the
18 purposes here, you've got everything you need
19 to see just to get started here.

20 I guess it was last July that we
21 met in New York City and then subsequently in
22 New Orleans. And we decided to put this off a

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1 little bit because there were so many
2 unknowable things that were occurring in the
3 seafood safety arena: The new administration;
4 we had some new legislation that empowered
5 another agency to get involved, which I'll get
6 into; and many other things that we really
7 wanted to have come clear before we
8 established this plan.

9 So we worked together as a group.
10 We had three brainstorming sessions, and I
11 certainly don't do this alone. We had a great
12 group of people: Myself; and a Regional Chief
13 Inspector, Eric Steiger; we had two Scientists
14 from National Seafood Inspection Lab, Calvin
15 Walker and Tony Lowery; we had Tom Huang and
16 Dr. Walt Dickhoff from the Northwest Fisheries
17 Science Center; and Linda Chaves, who's
18 advisor to Jim, all work on this.

19 And knowing how the Vision 2020
20 document was developed, we sort of used the
21 assumption that we envision that we're reading
22 in the newspaper in the year 2020 and these

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1 things at NOAA Fishery have occurred.

2 Also, since I didn't develop any of
3 this by myself, I've taken an opportunity of
4 not doing all the presenting today, so I'm
5 going to have Linda Chaves do some presenting.

6 Linda's a long-time leader in policy and
7 trade development in NOAA Fisheries and sort
8 of served as a visionary, which is a right
9 handy thing to have when you're trying to
10 hatch a strategic plan. So she's been
11 integral in getting ideas out on the table.

12 But also Walt Dickhoff is going to
13 present as well. You know I think I've
14 mentioned in past meetings here what terrific
15 scientists we have in NOAA Fisheries, and
16 Walt's one of them. And he's going to explain
17 some of the scientific goals and objectives
18 that we've cooked up here.

19 Okay. Here's just roughly the
20 contents of the document. We'll spend some
21 time talking about the context for seafood
22 safety in NOAA Fisheries, why we care about

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1 the seafood safety, the seafood supply itself.

2 Question whether the seafood supply is at
3 risk. Talk about consumer confidence and some
4 international requirements.

5 There will be a short discussion on
6 regulatory oversight, which I think I touched
7 on in the past and will again briefly today.
8 And also we have a series of program goals and
9 objectives, which is the essence of our plan.

10 And with this I will hand this
11 little piece of machinery over to Ms. Linda
12 Chaves, who is going to talk about setting the
13 stage for seafood safety.

14 MS. CHAVES: Thanks, Tim.

15 I'm a little nervous about him
16 hanging all of the visionary stuff on me. It
17 really wasn't just me. But, okay, so we
18 actually started talking about the goals and
19 objectives, but then decided we really needed
20 to provide some context for why all of this is
21 important. So why do we care, other than the
22 fact that we want to know that what we buy in

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1 the store is safe?

2 First of all, the Agency has
3 responsibility for managing and conserving
4 fisheries. And we have to contribute the
5 seafood supply for the domestic market and
6 we're also interested in exporting, and of
7 course it's got to be safe.

8 We want to make sure that what we
9 eat whether or not it's imported or produced
10 domestically is safe. And we also want to
11 make sure that whatever information is out
12 there is accurate because, as has been
13 mentioned already, there's an awful lot out
14 there which is not totally accurate.

15 And Phil gave a great lead-in about
16 the potential health benefits of seafood. And
17 what we're seeing is that the research that
18 has been done within the last few years, in
19 particular, there is increasing evidence that
20 seafood benefits outweigh the risks and that
21 we should all be eating a lot more seafood and
22 that, in fact, and I won't go into this, but

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1 there are an awful lot of possible savings to
2 the nation from reduced healthcare costs.

3 Seafood supply, we're importing an
4 awful lot more seafood in the last ten years:
5 600,000 more metric tons, worth \$6 billion
6 more. We're now importing from over 150
7 countries, many of those are developing.
8 Their systems are not anywhere near as robust
9 as ours when it comes to seafood safety. And
10 by 2030 we'll need an additional 1.4 million
11 metric tons round weight seafood if we
12 continue eating at the same per capita level
13 that we are eating today.

14 So the numbers here aren't
15 important. What is important is if you take a
16 look at the countries where we get most of our
17 seafood -- China 23 percent, Thailand, Canada
18 is a big one, but Indonesia, Vietnam, Ecuador,
19 Mexico, and an awful lot of countries up there
20 that one would consider as being developing
21 countries -- and that's where the large
22 proposition of the seafood that we eat in this

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1 country comes from.

2 And I know that some of you have
3 seen this slide before or a variation of it
4 before, and unfortunately Tim was the one that
5 tried to explain it, but I don't think he had
6 seen it very long before he had it, so let me
7 try to go through this once again.

8 If you take a look at our harvests,
9 the red line here, that is both a harvest for
10 consumption and for industrial use. Let's
11 throw it all up there and see where we are.

12 Then we export between the red line
13 and the green line, so that the supply
14 generated by what we produce in this country,
15 be it from aquaculture or wild-capture
16 fisheries, goes down here. What we consume is
17 this blue line. So, as has been said in some
18 place if not already later on, there's some
19 discussion about the fact that about 80
20 percent of what we consume in this country is
21 coming from imports.

22 We decided to go out to 2030 and

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1 assume that our harvest levels return to the
2 highest levels they've ever been since 1980,
3 which is right around here, and assume that
4 our exports remain constant, and that's one
5 that could go up, could go down, depending on
6 what market prices are around the world. And
7 we assume that per capita consumption would
8 remain constant, not heeding the
9 recommendations to eat more seafood, and the
10 population growth figures were fairly
11 conservative that were used.

12 So what happened there is that
13 we're going to need this much seafood in 2030,
14 which is a delta of this, which was, as I said
15 a moment ago, about 3 billion pounds, about
16 1.4 million metric tons of seafood, and that's
17 going to have to come either from domestic
18 production or imports. And given what we know
19 about wild-capture fisheries, they're probably
20 not going to be increasing a whole lot more
21 significantly. So a lot of it's going to be
22 coming from aquaculture and probably from

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1 other countries. But right now this is what
2 we're importing, and a lot of that is coming
3 from aquaculture already.

4 And this is just to give you an
5 idea of what we're going to be dealing with as
6 far as the seafood supply in the United States
7 that we are going to have to address whether
8 or not we produce it here or we get it from
9 somewhere else.

10 Any questions about that one before
11 I go on?

12 Okay. Oh, one thing I had here is
13 that everything was in round weights.

14 MR. SIMPSON: We keep getting this,
15 you know, good for you and we're importing and
16 we're eating and everything, when is the
17 economics going to help these guys out?
18 That's what killing us. You know, the
19 economics of it.

20 MS. CHAVES: That's a different
21 discussion.

22 (Laughter.)

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1 MS. CHAVES: Okay. And so
2 inspection has an awful lot of challenges in
3 this area.

4 Eighty percent of what we consume
5 is imported. That's around 2.3 million metric
6 tons per year. That's finished product. FDA
7 inspects about two percent of those imports
8 only. Now it's not two-percent randomly,
9 across the total. Where they know that there
10 are problems, they will increase the
11 inspection, say, for products coming from
12 China.

13 But our Inspection Program inspects
14 40 percent of processed product. Now that
15 includes product that has been harvested in
16 the United States, is consumed in the United
17 States. It also includes product that is
18 harvested here and exported. But it is also
19 product that comes into the United States,
20 where you have somebody like Kroger that
21 insists that the seafood they're going to sell
22 has been inspected by our program.

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1 And I know this whole 40 percent,
2 two percent, gets confusing to a lot of
3 people, and Tim will probably talk about this.

4 VICE CHAIR BALSIGER: That 40
5 percent, that's like a sampling program. So
6 like 40 percent of the fish are not looked at
7 it. It's like a load comes into Kroger and
8 Tim's group takes a look at some of that.

9 MS. CHAVES: Correct, but using
10 sampling methodologies and taking the right
11 number of samples.

12 MR. HANSEN: Yeah. We use sampling
13 plans and from the sampling plan we don't look
14 at every fish or every piece of fish.

15 MS. CHAVES: So is the supply at
16 risk? Well, seafood's vulnerable to an awful
17 lot of contamination. You have a lot of fraud
18 going on in the seafood industry.

19 As you saw, there are a number of
20 countries that are developing countries, their
21 infrastructure is not as good as ours. And we
22 also have change in environmental threats.

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1 Acidification is something that will be talked
2 about, and that can create some problems. And
3 I believe that is going to address some of
4 these possibly a little later on as well.

5 As far as drugs being found in
6 farmed fish, between 2004 and 2007 FDA tested
7 for four different drug classes. Nine percent
8 of the samples they looked at were positive,
9 and these are some of the things that they
10 found: Nitrofurans, malachite green,
11 fluoroquinolones. We have rules against
12 these. Some countries do not. Some things
13 have never been tested for.

14 Interestingly, Australia which
15 doesn't import anywhere near the volume that
16 we do, in 2007 had 31 percent of the samples
17 that they tested come out positive for a whole
18 variety of things.

19 Yeah, Randy.

20 MR. CATES: Real quick. Is
21 Australia doing a more intense testing program
22 than the United States?

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1 MS. CHAVES: I believe so.

2 MR. HANSEN: Yeah.

3 MS. CHAVES: Yeah.

4 DR. DICKHOFF: They're looking for
5 88 different drugs.

6 MR. CATES: So it's safe to
7 assume...

8 MS. CHAVES: That's partially why
9 also.

10 MR. MARTIN FISHER: Do they also
11 import more from China than we do?

12 MS. CHAVES: I doubt it.

13 MR. HANSEN: I seriously doubt
14 that.

15 MS. CHAVES: I serious doubt it.
16 And I should have also noted that some of the
17 imports from China that we have are products
18 that we have exported to China for processing,
19 such as salmon and white fish, we also send
20 crab over to be broken up, sometimes that's
21 being done at a U.S. plant where we have USDC
22 surveillance, but sometimes it just goes to

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1 processing plant X down the corner and who
2 knows what's going on there.

3 MR. CATES: One quick question of
4 follow-up on that. Do you test domestic-
5 produced seafood?

6 MR. HANSEN: Do we, does NOAA
7 Fisheries? Yes, we have a testing protocol
8 for all inspected products and it varies by
9 what the risk is and what the product is and
10 so forth.

11 MR. CATES: Is that part of that R
12 number or would it be separate?

13 MR. HANSEN: No, it would be
14 separate.

15 MR. CATES: That would be
16 interesting to see.

17 MR. HANSEN: We have a database for
18 that.

19 DR. DICKHOFF: And those data for
20 the FDA studies, those are samples from China,
21 Indonesia, and Vietnam.

22 MS. CHAVES: Yeah. These are just

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1 from Asia. So if you were to take a look at a
2 global --

3 MR. CATES: To me it's important
4 for the group because it would show -- I'm
5 assuming it would show that the United States
6 were producing safer product and it would
7 drive, what my belief is, we need to find ways
8 to produce more of our own because it's right
9 there already.

10 MS. CHAVES: But when you take a
11 look at the volume that we're importing,
12 that's a huge challenge. I mean I agree with
13 you a hundred percent.

14 MR. DEWEY: Linda?

15 MS. CHAVES: Yeah.

16 MR. DEWEY: I had a question back
17 on your 40-percent inspected, is that 40
18 percent of imports or 40 percent of --

19 MS. CHAVES: Of everything.

20 MR. DEWEY: Everything.

21 VICE CHAIR BALSIGER: But that
22 inspection, the 40 percent, wouldn't look for

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1 drugs in fish, would it?

2 MR. HANSEN: Not mostly, but again
3 we do take random samples and do analytical
4 work in the National Seafood Inspection Lab
5 for a broad array of seafood hazards. So
6 depending on the risk of the product we would
7 sample for that on kind of an intermittent
8 basis, but we're building a database.

9 MS. CHAVES: I mean I think one of
10 the things that's important, when you take a
11 look at the increase in seafood imports and
12 the increase in seafood that is available to
13 the nation right now and the Inspection
14 Program, which hasn't changed significantly in
15 the last 20 years or so probably, we just
16 don't have the capability to do what is
17 necessary in today's world.

18 Economic fraud. Everybody's heard
19 about -- okay, go ahead. Sorry.

20 MR. EBISUI: Sorry to digress. But
21 you know in addition to seafood safety, with
22 respect to the imports, is there any

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1 assessment that's done to determine whether or
2 not these fish, the wild-caught ones, are
3 coming from responsible fisheries?

4 MS. CHAVES: The government doesn't
5 do that. MSC identifies some fish that way,
6 but we at this point are not doing that unless
7 -- that's not totally true. We have some
8 requirements for shrimp, we have some
9 requirements for fish coming out of the
10 Kamalar region, also for tuna, but it's not
11 done across the board.

12 MR. EBISUI: It just seems somewhat
13 hypocritical for the United States to being
14 very careful about managing its fisheries
15 responsibly and then, on the other hand, just
16 importing from anywhere, from any fishery.

17 MS. CHAVES: And I'll address that
18 shortly.

19 As far as fraud is concerned, this
20 is only talking about species substitution.
21 Everybody's read articles in the papers about
22 farmed salmon being sold as king salmon in New

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1 York and everybody loving the farmed salmon
2 but thinking they're eating king salmon.
3 Pangasius, frequently known as basa. I get
4 calls from the Border Protection Service
5 people saying: Does Thailand really produce
6 30,000 metric tons of grouper? And the
7 answer's no. So we get a lot of questions
8 like that. Snapper, rockfish.

9 And these are just some of the ones
10 that are with regard to species substitution.

11 You also get a lot of short weights, all the
12 typical things that you find in the industry.

13 Yes.

14 MR. FLETCHER: Some of these
15 species-substitution issues really aren't any
16 kind of a criminal violation.

17 MS. CHAVES: Correct -- well, yeah,
18 they are, but they're not a food safety
19 violation.

20 MR. FLETCHER: But I mean people
21 use common names that aren't accurate.

22 MS. CHAVES: But you're supposed to

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1 use names off the fish list.

2 MR. FLETCHER: It's in the also?

3 MS. CHAVES: Yes.

4 MR. HANSEN: A technical violation.

5 MR. FLETCHER: Well, I'll tell you
6 what, a lot of people don't know that and the
7 enforcement is almost nonexistent.

8 MS. CHAVES: Well, exactly, and the
9 FDA can't do it simply because they are
10 looking more at health concerns or
11 bioterrorism.

12 MR. CATES: It is against the law
13 and there was a guy who was arrested this
14 morning in Seattle for this exact --

15 MS. CHAVES: That's right. Fined
16 about 140,000.

17 MR. CATES: He was arrested.

18 MS. CHAVES: Yeah.

19 MR. SIMPSON: If you go to Florida
20 and you order a grouper sandwich and you pay
21 \$6 for it, it ain't grouper.

22 (Laughter.)

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1 MS. CHAVES: One of the other
2 problems with some of the substitution is that
3 you have allergy issues, where people can
4 possibly get a fish that they're allergic to
5 unknowingly. And so you do have a human
6 health issue, but it's not a huge one.

7 MR. HANSEN: Or species-related
8 food safety issues, that there would be masked
9 because you don't know the real species.

10 MS. CHAVES: Consumer confidence.

11 MR. JONER: So when you go test
12 whether it's real grouper or not, how do you
13 do that? Does Tim taste them all and no other
14 fish?

15 MR. HANSEN: Yes, I do.

16 MS. CHAVES: The National Safety
17 Inspection Lab has some DNA testing and we
18 have an ever-growing databank of DNA for
19 different species. And I'm not sure if the
20 Northwest Science Center does that. I know
21 they have the capability to do it as well. We
22 can do it, not as well as we might like to --

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1 or not to the extent that we would like to.

2 MR. JONER: Are there some triggers
3 or indicators that this -- or is it just tests
4 at random or somebody has a question? I mean
5 that's kind of a dumb question. Do you use
6 dogs to sniff and --

7 MR. HANSEN: And no beagles. I
8 know usually if it's grouper you might suspect
9 it at \$6. Like Larry points out, you might
10 suspect that somebody's playing a game. And
11 there are specific test kits developed for
12 grouper now. I think the University of South
13 Florida, Dr. Hogarth are working on that. And
14 I think it's a big help for that fishery.

15 MS. CHAVES: And also the Customs
16 and Border Protection people have laboratories
17 where they're doing this and they're looking
18 particularly at some of the species coming in
19 from Asia because of the problems they're
20 aware of.

21 MR. SIMPSON: Just another side, I
22 mean I saw personally with my own eyes in

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1 Florida some of the restaurants are selling
2 fish now instead of, because they've been
3 criticized in the local papers and exposed.
4 They're not selling it as grouper. They're
5 selling it as basa, on the menu.

6 Now my problem with that is they're
7 still trying to charge grouper prices for
8 basa, so I don't buy it.

9 MS. CHAVES: And if it works, I
10 mean, whatever.

11 As far as consumer confidence is
12 concerned, I mean this goes on the safety
13 issues. It talks about contaminants. We've
14 all heard about PCBs, we've heard about all of
15 the antibiotics that are being used, not being
16 used. And there's an awful lot of information
17 about there about wild versus farmed.

18 Some of this information is
19 accurate, some of it is not. Some of it is
20 agenda driven, unfortunately. And it's
21 something that just leaves the consumer
22 confused and the consumer ends up going and

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1 eating something else. And so I believe that
2 we have a responsibility to try to stand up
3 for science and try to correct the
4 inaccuracies that are out there.

5 International requirements for
6 seafood imports. Countries all over the world
7 are now requiring more certification of
8 seafood. The European Union has for some
9 time. China requires certificates, Russia
10 requires certificates, Australia requires
11 certificates. And that is just increasing.

12 And going to the bit about seafood
13 -- about fisheries management, the European
14 Union next January is implementing a new
15 regulation which will require that all seafood
16 imports have to be labeled as being IUU free.

17 We could talk for a week about that issue.
18 Their program is very, very different from the
19 U.S. program, where we're looking at notifying
20 countries, identifying countries as being bad.

21 One of the big strains on the
22 Inspection Program will be that in the past

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1 FDA and we have been the organizations doing
2 -- preparing the certificates for exports to
3 the European Union. As of June we're going to
4 be the only ones doing it. And because FDA
5 was doing it for free and we were charging
6 something, you can probably figure out who was
7 doing the bulk of the certifications
8 beforehand. And so our inspectors are now
9 going to be having to increase the volume of
10 exports by about 900 percent.

11 MR. HANSEN: Well, let's see, yeah,
12 not quite -- well, yeah, about 400 percent.

13 MS. CHAVES: Four hundred percent.

14 In any case, it's going to be a real
15 challenge come January 1st. And come -- I
16 mean June --

17 MR. HANSEN: June 17th.

18 MS. CHAVES: -- June 17th. And
19 then come next January, they will also be
20 doing certification on the IUU status of fish
21 that we export to the European Union.

22 And I think --

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1 MR. HANSEN: I think it's my turn.

2 MS. CHAVES: Now it's your turn.

3 MR. HANSEN: Well, I thought I'd
4 give a little context to you guys, I may have
5 in the past, about sort of the regulatory
6 situation in the country.

7 First of all, presently there's two
8 competent authorities responsible for seafood
9 safety and quality, and that's Food and Drug
10 Administration, which is the lead agency.
11 They are the regulatory folks that make sure
12 that requirements are met.

13 Our mission is a little more
14 limited. We're a voluntary fee-for-service
15 organization that focuses on helping industry
16 meet the needs of their customers in food
17 quality and so forth.

18 In 1956, when we broke away from --
19 or had legislation that broke us away from the
20 Department of Agriculture, we were given food
21 safety responsibilities under the Fish and
22 Wildlife Act. So right now we're the two

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1 players.

2 We've got a third one coming, and
3 this was one of the unknowables the last time
4 we met, is the Food Safety Inspection Service
5 of the USDA and the Ag Marketing Service in
6 the Farm Bill 2008 were given authority to
7 regulate catfish, farmed catfish, and if
8 things go well possibly all farmed fish.

9 And it looks as though, just since
10 I have people from the Food Safety Inspection
11 Service calling me almost every day now,
12 because they want to know things about catfish
13 and farmed fish, it looks as though they're
14 very serious about moving ahead and being the
15 regulators in that area. So this is going to,
16 I guess, make things a little murkier in the
17 food regulatory world.

18 And I might note that the Farm Bill
19 didn't take away any authority from the Food
20 and Drug Administration, so now we have two
21 major regulatory agencies with the same
22 authority, which may have some interesting

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1 results. What usually happens is I guess an
2 agency, when there's overlapping authority,
3 one of the agencies will take the case to the
4 Justice Department and the Solicitor General
5 will make a decision. In fact, we've got a
6 new attorney, and he found digging through the
7 archives that in 1956 we actually -- USDA
8 actually brought a case against the Interior
9 because we were broken away from the
10 Department of Agriculture, and Interior won.
11 So there's precedence in the seafood world.

12 So this is going to kind of muddy
13 the waters a little bit and it certainly will
14 for us because now we'll have possibly two
15 regulatory agencies that we have to coincide
16 with.

17 Just a couple things on the -- you
18 know, kind of the context, and I won't dwell
19 on this because Linda has, is that you know
20 the world's changed from the regulatory
21 standpoint from particularly when Food and
22 Drug organized. I think it was sort of

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1 designed for a domestic food industry, where
2 the production plants would be available to
3 them and they could do their inspection.

4 These days we think there's about
5 20,000 plants overseas shipping seafood
6 products to the United States, which presents
7 a very large challenge to FDA to try to figure
8 out how to get out there and regulate these
9 people. And, as Linda mentioned, some of
10 these countries don't have great regulatory
11 infrastructures. So I think they're
12 struggling a little bit with that, and you
13 could see it in the Food Protection Plan how
14 to figure out how to adequately get to all
15 these firms that ship us seafood products.

16 So I think in part the answer is we
17 need to have better coordination between the
18 agencies. And I think we can be a player and
19 a helpful junior partner to FDA in some of
20 these food safety issues overseas.

21 Just quickly, this is NOAA
22 Fisheries' assets, if you will, for food

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1 safety regulatory situation. You have the
2 Seafood Inspection Program, as I mentioned, is
3 a voluntary fee-for-service organization under
4 the Ag Marketing Act, which provides
5 assistance in the inspection services to the
6 industry to promote quality and safety of
7 product.

8 We also have the National Seafood
9 Inspection Laboratory which is in Pascagoula,
10 Mississippi, which does a lot of our
11 analytical work and is our baseline science
12 support organization.

13 We also receive science support
14 from Northwest Fisheries Science Center who
15 does a whole array of research in the food
16 safety areas on providing environmental
17 research and monitoring and fish and shellfish
18 and the effects of climate control and harmful
19 algal blooms, and how all these things fit
20 into human health and affect human health.
21 And they also have had a good track record of
22 responding to big emergencies like Exxon

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1 Valdez and the Cosco *Busan* and Katrina. And,
2 as Walt mentioned, they do forensics, DNA
3 testing for species I.D. for our Office of Law
4 Enforcement and so forth.

5 Getting down to the nitty gritty
6 here, we have a plan with four goals and
7 probably about approximately 30 objectives
8 under these goals.

9 The first goal is: NOAA's
10 policies, priorities, and organization. Goal
11 2 is essentially how to strengthen the Seafood
12 Inspection Program. The third is what sorts
13 of research and monitoring, analytical sorts
14 of things we ought to be doing, and the fourth
15 is consideration about consumer protection,
16 understanding, and confidence.

17 So just quickly, Goal 1, and the
18 tagline we have for this: NOAA Fisheries
19 Program -- remember we're looking into the
20 year 2020 -- NOAA Fisheries Programs and
21 research assure safe, consistent quality and
22 accurately-labeled seafood for the nation. So

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1 the first objective we've got there is --
2 these are, by the way, overarching goals for
3 NOAA Fisheries in general -- we ought to be
4 part of and considered in the overall NOAA
5 strategic plan as a priority. And from
6 leadership last week I heard that that may be
7 already happening, that at least we'll be in
8 the mix.

9 The second objective is we
10 recommend that maybe NOAA consider an external
11 seafood advisory panel to help us set
12 priorities on safety and research and health
13 and dietary recommendations. It's always good
14 to have an outside opinion on what you're
15 doing in an organization like our Agency.

16 The third one is we recommend that
17 the Seafood Inspection Program and NOAA
18 Laboratories and Office of Law Enforcement
19 continue to work to reduce economic fraud in
20 the workplace. The Government Accountability
21 Office just put out last month a study of
22 seafood fraud in which they studied three

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1 agencies, FDA, NOAA, and Custom Border
2 Protection, and were critical of all of us for
3 not working together more closely and
4 recommended that we, first of all, have a --
5 work together to build a forensics library so
6 we can do broadbased DNA testing and also come
7 together and come up with sort of a strategic
8 plan or an agreement wherein we work more
9 closely together. And that process actually
10 started two weeks ago when we all met over at
11 Sift Sand in College Park.

12 The fourth objective under Goal 1
13 is: NOAA increases our role in regulatory
14 policy through greater participation in
15 international FORA. This includes Codex Fish
16 Committee, it may possibly other Codex
17 Committees, the World Organization for Health,
18 OIE, and ISO.

19 We're not the main regulatory body
20 of the United States for fish, but we do have
21 a great amount of expertise and capacity. And
22 this is a place, in these international fora,

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1 where we can make a big impact. And so we're
2 recommending that we get a little support to
3 do just that.

4 Number 5: NOAA Fishery provides
5 Seafood Inspection Program with the resources
6 that better enable it to be the government
7 source for all required seafood certificates.

8 All of our certifications are on a fee-for-
9 service basis, we were thinking more in terms
10 of support money and services. And one of the
11 things that we were thinking about was
12 establishing a website that lays out all the
13 export certification requirements that the
14 industry may encounter when they want to do
15 business overseas. So it's kind of a one-stop
16 shop. You can go there and find out what you
17 need to know. If you can't figure it out, you
18 can call us.

19 And also possibly thinking about
20 other fishery data trade and possibly placed
21 in other locations around the Earth. We have
22 two: One in Belgium and one in Tokyo

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1 presently, and they do a terrific job of
2 promoting trade and solving problems related
3 to trade. And I'm wondering maybe a person in
4 Beijing at some point might be given all the
5 trade that goes into might be a key position
6 to have to better promote trade.

7 That does it for Goal 1.

8 Goal 2, the line here is: NOAA
9 increases its inspection certification and
10 compliance verification capacity and
11 effectiveness in response to consumer and
12 industry needs, new mandates, and
13 international trade requirements.

14 I think we have 14 objectives.
15 I've sort of combined them here for brevity.
16 But, first of all, most important is that we
17 complete agreements with other agencies, and
18 the most important one being their inspection
19 agreement with the Food and Drug
20 Administration.

21 I can tell you we're down to about
22 20 words, 20 phrases, just parts of words.

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1 We're very, very close. It now seems to be
2 seafood inspection, NOAA Fisheries, is the
3 answer that gets the GC lawyers in other
4 higher levels of FDA. I think we're going to
5 get there pretty soon. We're nibbling at the
6 end and sort of mud wrestling about little
7 bitty things right now.

8 Another one we've got going is with
9 Animal Plant Health Inspection Service.
10 There's been an increasing demand for animal
11 health attestation for a live product or even
12 a processed aquaculture product that's shipped
13 overseas. They want to know this product is
14 disease free. And that's the purview of
15 APHIS, if you will. And, as it turns out,
16 they don't want anything to do with it, so
17 they gladly want to delegate it to NOAA
18 Fisheries, and we're working on an MOU with
19 them to do that. And that would be very
20 germane with our deadline with the European
21 Union, where the NOAA Fisheries Inspection
22 Program will do all the certificates. Two

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1 weeks after that we have another deadline
2 which imposes animal health attestations for
3 products going into Europe. So we're going to
4 need to have that delegation.

5 Possibly, I guess the Food Safety
6 Inspection Service becomes the catfish kings,
7 we will need to have some sort of an
8 arrangement with them as well to work out our
9 operational arrangements and so forth, how we
10 -- you know, a framework of how we behave
11 towards each other.

12 The second one is: Seafood
13 inspection creates a joint program to address
14 economic fraud in seafood in the marketplace
15 with FDA, Custom Border Protection, and FSIS
16 if necessary. As I mentioned, this is
17 underway and I think we probably can attain
18 this goal in the near future. So we're all
19 working closer together to try to prevent some
20 of these seafood fraud problems.

21 By the way, Linda mentioned species
22 substitution, but the bigger problem is

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1 actually mislabeling and short weights, which
2 from our inspection data looks to be about 30
3 percent of all lots that we look at. So it's
4 a big problem and we hope to be able to
5 address it with the other agency.

6 The third one: NOAA Fisheries
7 increases Seafood Inspection's internal
8 capacity to conduct foreign seafood HACCP
9 audits to ensure greater compliance with
10 regulations. This one, we have about -- this
11 has to do with training people to do HACCP
12 inspections. And HACCP, as I think when I was
13 at Food and Drug, we've learned that it's a
14 pretty high maintenance operation, that people
15 have to be highly trained and highly skilled
16 to do these kinds of inspections. We just
17 don't have enough people. We've got about 35
18 people right now that can do these sorts of
19 things. We need at least double that, so
20 we're seeking some help in getting that
21 implemented into our program. And this is an
22 auditory training, food safety -- recognizing

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1 food safety hazards and so forth.

2 The next one is kind of a
3 combination of several objectives: Seafood
4 Inspection rewrites and modernizes regulations
5 for processed fishery products, which I have
6 to tell you are hopelessly outdated. They
7 probably should have been rewritten 20 years
8 ago. They're certainly outdated now. So
9 we're going to undertake that project as soon
10 as we possibly can in the near future to try
11 to modernize the regulations by which we do
12 business.

13 Also the U.S. Grade Standards do
14 not represent and most of them haven't been
15 rewritten in 30 to 40 years. They don't
16 represent the best practice in the industry
17 anymore. Technology has kind of taken over.
18 This wasn't so important a few years ago, but
19 suddenly Walmart and Kroger and some of the
20 big institutional buyers starting using these
21 things as buying specifications, so then
22 everybody got interested in them. So we want

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1 to update those and make them very usable
2 standards for the industry.

3 And, lastly, we'd like to create
4 generic buying specifications for the retail
5 trade. Retailers don't always know what
6 they're doing when it comes to buying seafood.

7 Like last year's guy we got from Walmart
8 actually did tires the year before, so you can
9 imagine he had a bit of a learning curve to
10 figure out how in the heck to get the kind of
11 fish quality that Walmart generally wants for
12 their customers. So we face this sort of
13 challenge all the time. If we had a generic
14 buying specification we could just slip under
15 their nose, I think that would help their
16 learning curve.

17 Seafood -- we've mentioned this.
18 It becomes a government source for all seafood
19 certification. That's actually about to
20 happen, we think, June 17th.

21 And Seafood Inspection creates a
22 database system to track inspection

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1 information, issue certificates and billings.

2 Right now we have no such system. We have an
3 antiquated billing system and we generally
4 write certificates on PDF forms. We have a
5 \$23 million budget. It's very difficult to
6 run such an organization when you don't have a
7 management information system. And we've
8 begun the process of developing this, but I
9 think this is a goal that will very much make
10 us better managers if we can understand
11 problems and trends by looking into the
12 database.

13 Seafood inspection develops
14 training programs for both inspectors and
15 industry. We have fairly extensive training
16 in HACCP, sanitation, and of course for
17 seafood chefs, for the industry, and also our
18 inspectors take the same course for HACCP.
19 But having spent almost nine years away at
20 FDA, when I came back I found that we don't
21 really anymore have a standard training
22 program. So that's -- given that we really

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1 need to develop the professionalism of our
2 workforce, this is a very important goal for
3 us, is to try to figure out how we can make
4 sure that these people are learning new and
5 better things all the time.

6 The last one is, like I said, about
7 to happen: Seafood Inspection becomes the
8 sole source for export certificates for
9 seafood, including EU Health and Catch
10 Certificates. And the Health Certificates
11 will refer to us on June 17th, we think. And
12 the Catch Certificates, if the European
13 Commission stays to their deadline will be
14 January 1. And that one will be sort of a
15 traceability system to figure out if a wild
16 product is caught legally, in a legal fishery.

17 And we think that NOAA Fishery is the best-
18 managed fisheries program in the world and we
19 think we can show that. But we're working on
20 negotiations with the European Commission at
21 this time.

22 And with that, Goal 3, I'm going to

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1 give this little thing over to Dr. Dickhoff.

2 DR. DICKHOFF: Goal 3 addresses
3 research and monitoring capabilities. As you
4 heard from Tim and Linda, our seafood supply
5 is changing rapidly; wild-capture fisheries,
6 aquaculture, from 150 different countries. To
7 give you an idea of the diversity of
8 aquaculture species, there's approximately 400
9 different aquatic species undergoing
10 domestication.

11 So to anticipate and be proactive
12 in addressing the changing threats and risks
13 for seafood imports, we need to increase the
14 analytical capacities and capabilities for
15 identification of trends and contaminants,
16 nutrients, and seafood safety.

17 Contaminants, as you've seen
18 earlier, are some of the veterinarian drugs
19 that we find in imported seafood from Asia.
20 Nutrients will probably change too. For
21 example, omega-3s fluctuate quite a bit.
22 They're very high in cultured salmonids,

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1 higher than in wild salmonids, the omega-3
2 fatty acids. But as industries change to
3 different feeds, more plant-based feeds and
4 oils and proteins, the omega-3 patterns may
5 change there too. So we need to track
6 nutrients.

7 NOAA Fisheries needs to conduct a
8 sustained monitoring effort that
9 systematically samples the seafood supply.

10 NOAA Fisheries develops and
11 validates -- this is number 3 -- accurate and
12 rapid methods for identification of seafood
13 species. The consortium on the barcode of
14 life is trying to establish a DNA sequence, a
15 DNA barcode that would identify all animal
16 species and plants. And that's a part of a
17 cytochrome c-oxidase gene, which is being used
18 for a lot of fish species, and it seems to
19 work quite well. So this DNA barcode would be
20 used as a basis for species identification.

21 The FDA is leading the coordination
22 among federal labs, and NOAA Fisheries' labs

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1 are involved in establishing and validating
2 these DNA barcoding techniques for species
3 identification. These are backed up by
4 vouchered museum specimens of fish either in
5 the Smithsonian or University of Washington
6 Fish Collections. So that's going -- seafood
7 species I.D. methods are ongoing and it's
8 hoped by 2020 there will be a handheld DNA
9 species device that industry could use to
10 identify species. And that's been supported
11 by NOAA Fisheries through the Small Business
12 and Innovative Research Program.

13 NOAA Fisheries determines the role
14 of climate change and incidents of algal
15 toxins and bacterial pathogens in seafood.
16 We're seeing changes in the incidence of
17 biotoxins. For example, some of the harmful
18 algal blooms producing domoic acid paralytic
19 shellfish poisoning that have been increasing
20 in some places. Bacterial pathogens in
21 seafood also are changing recently, and I'll
22 show some data.

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1 Here, these are data showing the
2 relative incidence of certain seafood pathogen
3 infections for the last ten years. And this
4 includes -- these are data from the Center for
5 Disease Control and Prevention, a Recent
6 Update. And it shows a number of lines there
7 on the decline over the last ten years,
8 including things like Salmonella and
9 Campylobacter, Listeria, and some strains of
10 e-coli are on the decline. But vibrios are
11 clearly increasing. Vibrio parahaemolyticus
12 and vibrio vulnificus, which are common --
13 which are usually seen in shellfish as
14 pathogens but can also be found in fin fish.

15 And these vibrios, for example
16 vibrio parahaemolyticus was seen in 2003 for
17 the first time in Alaska, so these are
18 increasing and probably are linked to or
19 speculated that they're linked to increases in
20 temperatures and maybe also changes in ocean
21 pH, ocean acidity.

22 One last research thing. So we're

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1 also trying to develop early-warning systems
2 to support managers and decision-makers with
3 tools to protect human health and seafood
4 safety. These early-warning systems may be
5 looking at climate or environmental parameters
6 and trying to predict when outbreaks are most
7 likely to occur.

8 For example, in the Puget Sound
9 area researchers have identified that when you
10 get a combination of low tidal exchange, low
11 rains and runoffs, and low winds, you have a
12 higher incidence of harmful algal blooms. So
13 that could affect shellfish harvest. So those
14 are major research issues.

15 And also important with this,
16 especially in seafood safety, is consumer
17 perception, understanding, and confidence. As
18 mentioned before, there is a lot of
19 misinformation. But we need to establish a
20 public information and education program
21 regarding the health benefits and risks of
22 seafood. And the accumulating evidence is

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1 that the benefits far outweigh the risks.

2 One of the omega-3 fatty acids,
3 DHA, docosahexaenoic, is critical in child and
4 fetal development. And its main dietary
5 source is in seafood, so that needs to be
6 communicated.

7 NOAA establishes a international
8 clearing house for seafood and health
9 information in conjunction with other
10 international agencies, because there are
11 other countries and international efforts in
12 these same -- along these same lines.

13 NOAA supports research and
14 development of analytical capacity to identify
15 nutritionally beneficial components of seafood
16 and develop databases on micro-constituents.
17 This is again important as the nature of our
18 seafood supply changes and as fish feeds and
19 aquaculture change.

20 NOAA Fisheries develops tools for
21 consumers that help them make informed
22 decisions. These could include things like an

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1 algorithm, where you go online and you add in
2 what sort of species of fish you eat that
3 could tell you how much mercury risk do you
4 have, how many omega-3s are you bringing in.

5 NOAA Fisheries develops tools for
6 the seafood trade to enable accurate
7 identification in seafood species.

8 And then, finally: NOAA supports
9 the American Heart Association and other
10 health organizations' recommendations that per
11 capita seafood consumption be increased to at
12 least two meals per week or 12 ounces.

13 So, as we've shown, the nature of
14 seafood supply is rapidly changing. It's
15 rather dynamic. This is changing the risks
16 and concerns for seafood safety, and we need
17 to be responsive to these. And hopefully this
18 plan should enable the Agency to align seafood
19 quality and safety with its mission, better
20 serve the seafood consumer, and be an
21 effective federal partner.

22 Thanks.

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1 MR. BILLY: Tim, so your plan is to
2 complete a written strategic plan that is
3 painted by these slides and make it available
4 in a month's time; is that my understanding?

5 MR. HANSEN: Yes, sir.

6 MR. BILLY: Okay. Thanks.

7 Yeah, Heather.

8 MS. McCARTY: Thank you. My
9 question is obvious, I think. Are you going
10 to have also as part of that the potential
11 costs -- yeah, it looks like a pretty massive
12 undertaking and I think it's great, but I just
13 want to know what kind of resources might need
14 to be put towards it.

15 MS. CHAVES: We have started
16 gathering some of that information. We're
17 also trying to identify what is already being
18 covered. I mean we're not talking about new
19 money for everything because some of these
20 things are ongoing. Some will need to be
21 supplemented. And we're also looking at doing
22 this over a several-year timeframe.

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1 So I mean one of the things will be
2 an implementation plan which has lots of lines
3 and x's and things like that, but this is
4 nowhere near ready for prime time. And we'll
5 be doing one of those with dollar amounts on
6 it, too.

7 MR. HANSEN: Yeah. If I could just
8 follow up. A lot of this will probably just
9 come from fees assessed to the industry. It
10 just will take us some time to accomplish
11 these things. It's time more than money.

12 MR. BILLY: Vince.

13 MR. O'SHEA: Thanks, Mr. Chairman.

14 Tim, I've gotten a call from at
15 least one industry on EU Health and Catch
16 Certificate issue coming up. And I also heard
17 a presentation on a fellow in Seattle that's
18 working on trace register of product, a
19 computer product. And my question is: Are
20 you plugged into that group at all and are you
21 doing anything with other groups that might
22 show promise in being able to comply with

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1 these EU requirements?

2 MR. HANSEN: Well, I think, yeah,
3 all of us have talked to these guys quite a
4 bit and they've shown us their products which
5 are, quite frankly, impressive. There are
6 others. I didn't think they did, but they do
7 have several competitors who I met over in
8 Belgium a couple of weeks ago. And that would
9 be a rather elegant solution to some of this
10 traceability stuff, assuming we have to
11 actually attest to all that stuff.

12 However, I think we're meeting a
13 little resistance from the EC on that EGRMA,
14 their fisheries people who seem to want this
15 to be a governmental sort of activity.
16 However, we're negotiating and we really
17 haven't settled on an end point on that yet,
18 but that would be something that certainly
19 would do the job I would think.

20 MR. O'SHEA: Just a quick follow-
21 up. That's interesting because UL isn't a
22 government thing and --

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1 MR. HANSEN: Right.

2 MR. O'SHEA: -- you plug in your
3 alarm clock, it's safe.

4 MR. HANSEN: They do a good job.
5 Right.

6 MR. O'SHEA: Thanks.

7 MR. BILLY: Dorothy.

8 MS. LOWMAN: It's the same
9 questions as Heather, but just a follow-up.
10 You're looking like you're taking over the EU
11 certifications starting in June, which is
12 coming right up.

13 MR. HANSEN: Right.

14 MS. LOWMAN: And I think it will be
15 fee based, right, but are you at all concerned
16 that you have the capacity within to do this
17 in a timely manner?

18 MR. HANSEN: I'm not too concerned.
19 We actually have a little --

20 MR. BILLY: I can't hear your
21 response, Tim.

22 MR. HANSEN: -- excess capacity in

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1 New England, where we're going to be.

2 MR. BILLY: Tim, you need to speak
3 louder. Some of us are having a hard time.

4 MR. HANSEN: Me or her?

5 MR. BILLY: You.

6 MR. HANSEN: I'm sorry.

7 (Laughter.)

8 MR. HANSEN: Well, it turns out,
9 her question was whether we have the capacity
10 to do all that EU work. And I just point out
11 that FDA in the New England area is doing it
12 with two people, and we just so happen to have
13 -- to be over capacity by two full-time
14 equivalents, so we're not concerned about it.

15 We have plenty of part-time people that
16 always want more work. And we have a
17 supervisory staff that can chip in if they
18 need to. So I think we're going to have it
19 covered.

20 MR. BILLY: Linda.

21 MS. CHAVES: Well, one more thing
22 to add. We're also going to become more

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1 electronic, so that's going to reduce some of
2 the learn time.

3 MR. HANSEN: Yeah.

4 MR. BILLY: And Dave Wallace.

5 MR. WALLACE: My question goes
6 really back to what Larry had to say, but it
7 also connects into the two questions on costs
8 that have just recently been addressed.

9 And mine is I didn't see a policy
10 statement in your proposed strategic plan
11 which says that imports of product into the
12 United States should have to meet some of the
13 requirements that, for example, we have to
14 meet for the EU, and it becomes the importing
15 country's responsibility to develop an
16 approved plan like HACCP for identifying the
17 fish; the weights; the chemicals used,
18 especially in aquaculture. You know we end up
19 being the country that's responsible for
20 protecting our health and we should really, in
21 my opinion, have a policy that says that
22 Congress, the FDA, NMFS, maybe EPA should all

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1 put forth a collective policy for seafood
2 safety imports that meet the requirements of
3 our producers, because we -- yes, they have to
4 meet the HACCP plans, but they are not
5 required to identify how they're protecting
6 our customers' health, which gives them the
7 advantage of producing it less expensively
8 than us. And we should make it not free trade
9 but -- not fair trade -- free trade but fair
10 trade, where the U.S. producer is not required
11 to do any more than anyone else, but we also
12 protect the rest of our customers.

13 MR. HANSEN: Yeah. Well, first of
14 all, FDA does have, as you mentioned, does
15 require the products that they inspect meet
16 U.S. standard. The trouble is that they don't
17 have the capacity or the personnel to really
18 look at a lot of products, so it's a
19 monitoring system at best.

20 What you're really talking about is
21 sort of following the European Union model, if
22 you will. And I guess to make that work we,

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1 the United States, would have to require some
2 system of certification. In talking to my FDA
3 colleagues, I think they have come a long way
4 on this one. I think they're actually
5 considering something like that and also
6 considering developing a list of approved
7 plants and that sort of thing. It's sort of
8 along the EU model.

9 Obviously things need to change and
10 we don't know exactly what legislation is
11 going to bring us, but maybe the Europeans
12 don't have such a bad system after all. Maybe
13 their consumer protections turn out to be
14 pretty impressive. But that's in my opinion
15 what we'd have to do -- first of all
16 coordinate our activities and, secondly, have
17 measures in place like Europe does.

18 MR. BILLY: I'm going to be very
19 interested to see how the Food Safety and
20 Inspection Service and USDA deals with catfish
21 and related species, because for meat and
22 poultry they have under the law a set of

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1 requirements the force the foreign countries
2 to have the same system as the U.S. for an
3 equivalent system. And it is thoroughly
4 vetted and enforced for all meat and poultry
5 products.

6 Now that catfish has been added an
7 amenable species under the Meat Act, I'm sure
8 FSIS is going to use the same approach for
9 catfish. We may have a living example of how
10 that kind of approach can work for catfish
11 from Vietnam and China and wherever else they
12 come from, because, as I say, they don't mess
13 around. It's for real, it is strictly
14 enforced, and it may set a precedent for
15 seafood.

16 Martin.

17 MR. MARTIN FISHER: Thank you, Mr.
18 Chairman.

19 Tim, I thought I heard you say
20 earlier that you were looking to have some
21 certificate of inspection standardized among
22 agencies. Did I hear you right?

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1 MR. HANSEN: No. Actually we'd
2 issue all the certificates, whatever they'd
3 be, for seafood.

4 MR. MARTIN FISHER: Wasn't there
5 some issue, there was some certificate you
6 wanted to like standardize throughout the --

7 MR. HANSEN: No. Essentially,
8 certificates are demanded by the country we
9 export to, generally. So whatever format and
10 information they want, we follow that format
11 and provide the information and the
12 attestation and so forth.

13 MR. MARTIN FISHER: And is there
14 anything that MAFAC can do for you? I mean
15 are there any things that you need that we
16 could recommend to the Secretary that would
17 facilitate your request?

18 MR. HANSEN: Request for
19 inspections or are you talking about --

20 MR. MARTIN FISHER: Whatever.

21 MR. HANSEN: Well, --

22 MR. MARTIN FISHER: Is there

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1 anything you need that you don't have?

2 MR. HANSEN: Take onboard what you
3 think makes sense for this Committee, once
4 you've thought about it. This is what we're
5 thinking about. And if you want to make
6 comments or support any of these objectives,
7 then that would be a big help I would think.

8 MR. BILLY: Randy.

9 MR. CATES: Linda, I have a
10 question. Every year NOAA puts out in its
11 various speeches what the percentage of
12 imports is versus seafood consumed. Last year
13 Admiral Lautenbacher quoted an 82-percent
14 import and every year it keeps going up. Do
15 you know what the current percentage is?

16 MS. CHAVES: It's right around
17 there. I haven't seen the most recent numbers
18 from the NT Office. Depends on the
19 calculation.

20 VICE CHAIR BALSIGER: I do know
21 that the head of Fisheries on Monday on the
22 State of the Ocean -- or last Thursday -- when

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1 was it -- the State of the Ocean said it was
2 84 percent, and so I presume that must be the
3 latest data we have.

4 MR. CATES: And then the next
5 question I guess I would put to the MAFAC
6 Board is, every meeting it's very clear the
7 direction we're going in, that demand is going
8 up, our production is flat-lined. What I put
9 back to ourselves is: What are we going to do
10 to increase production? We have never in my
11 recollection talked about increasing
12 production. We're always talking about
13 quotas, various fisheries of maintaining a
14 status quo, other than aquaculture which has
15 sort of become a dead issue.

16 MS. CHAVES: I'd like to add to
17 that and that is --

18 THE REPORTER: Ms. Chaves, I'm
19 sorry.

20 MS. CHAVES: That's all right.
21 Sure.

22 THE REPORTER: Can you come up here

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1 closer to the mic?

2 MS. CHAVES: I think that we're
3 going to see -- it's going to become
4 increasingly difficult for the United States
5 to access the fish supplies globally that we
6 want. We used to be a larger importer of
7 seafood than the European Union. They have
8 now gone ahead of us. They are the largest
9 seafood importer in the world. They import an
10 awful lot to supply their processing industry.

11 The Chinese are importing more and
12 while they're exporting an awful lot, they're
13 keeping a lot more of that within China to
14 meet their food demand. And so I think that
15 the overall pie, even though it's growing, is
16 going to become a little more difficult for us
17 to access, which sort of feeds into your...

18 MR. CATES: Well, we as a body need
19 to start thinking about now how we're going to
20 increase production. We never really talk
21 about that. Whether it's from the wild
22 fishery or aquaculture, what are we going to

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1 do and what are we going to recommend to
2 increase that supply and production?

3 MR. BILLY: Randy, our 2020 report
4 does, as I recall, reference the growing
5 demand and the challenges to meet that demand
6 both domestically and internationally. But
7 maybe, picking up on your point, some further
8 thought by this Committee of how that's going
9 to be achieved and what that looks like or
10 should look like in the future, would be a
11 worthwhile endeavor. Just a thought when you
12 think about that.

13 Other questions or comments?

14 Okay. Yeah, Dave.

15 MR. WALLACE: I guess I'll jump in.
16 It is absolutely necessary for NOAA to not
17 get bogged down in offshore aquaculture. And
18 everything I read, it just looks like it's
19 going to become more and more of a quagmire.
20 And we do have to address the issues of drugs
21 or pharmaceuticals in the fish feed and what-
22 have-you and escapement and those things.

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1 But it is absolutely essential that
2 we become something besides a third-world
3 country as far as aquaculture, because we are
4 a third-world country, and it just irritates
5 me to no end to think of that, that the
6 Chinese make us look just silly as far as open
7 ocean aquaculture. And we, from my
8 perspective, this Committee needs to say to
9 Congress and to the administration that we
10 need to get serious and not dillydally around
11 for the next 25 years talking about silly
12 things that then forbids us from becoming --
13 using the technology expertise that we have to
14 move the world forward and not just be some
15 follower.

16 And I think that if I have anything
17 to do with this Committee, one of the strong
18 recommendations that is going to come out of
19 this Committee is that we have to move
20 forward, we have to take science seriously,
21 but we just don't need to get bogged down in
22 petty zoning of the sea.

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1 MR. BILLY: Tim.

2 MR. HANSEN: Yeah. Thank you, Mr.
3 Chairman. I guess now that we've presented
4 the basic basis of our strategic plan, we'd be
5 really interested at some point if we could
6 get some feedback from you folks. You had a
7 lot of excellent questions. But what do you
8 think about this and what works and what
9 doesn't? I personally would really like to
10 hear from you guys about that.

11 VICE CHAIR BALSIGER: Well, Tim,
12 what's your plan for -- within a month you're
13 going to produce a strategic plan. Is that
14 going to be out for public comment or you want
15 input, but do you want it before you put out
16 your draft or are you talking about when you
17 type this thing up?

18 MR. HANSEN: No. I think we
19 finished the draft. And then we'd like input
20 whenever we can get it, essentially.

21 MR. BILLY: Randy.

22 MR. RANDY FISHER: The devil's in

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1 the details. I want to know how much money
2 it's going to cost.

3 MR. HANSEN: Mark, do they have
4 access to the current draft; is that --

5 DR. HOLLIDAY: No, I did not share
6 that draft with them because it wasn't ready
7 to be distributed.

8 MR. HANSEN: Our next step is to
9 get it out to you guys, but any thoughts you
10 have would be greatly appreciated.

11 MR. BILLY: So in about a month's
12 time you will complete a draft with all this
13 budget and other information?

14 MR. HANSEN: Yes.

15 MR. BILLY: We can make it
16 available?

17 MR. HANSEN: No. In a month's
18 time, yeah.

19 MR. BILLY: Yeah, in a month's
20 time. And then have a strategy within the
21 Committee to respond back, if you can figure
22 out how we want to do that.

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1 DR. HOLLIDAY: But this afternoon
2 if you have any discussion points on his
3 presentation, on these general principles, you
4 could take that up as a Subcommittee this
5 afternoon.

6 MR. BILLY: Okay.

7 DR. HOLLIDAY: The details are not
8 available.

9 MR. BILLY: Okay. Any other
10 comments?

11 I'm sorry. Yeah.

12 MS. FELLER: I just wanted
13 clarification. In terms of the consumer
14 education aspects of the strategic plan,
15 what's kind of the action you want the
16 consumer to take? I mean do you want to
17 direct them to a website, do you want them to
18 buy something? That part I didn't quite
19 understand.

20 MR. HANSEN: Well, I think we want
21 them to -- we want to provide them with access
22 to information and education on this subject.

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1 Whether they'll take us up on it of course is
2 another matter.

3 MS. FELLER: Well, that's actually
4 a really good point and that's what raises the
5 question, is there's an awful lot of
6 information available to the consumers. And
7 you're never quite sure what people are tuning
8 into and what they're getting. And I'm
9 wondering if it came up in your discussions,
10 how you sort of cut through the clutter and
11 give people -- my experience with sort of
12 public messaging is you ought to give people
13 one sort of simple thing, you know, something
14 like: Just say no.

15 What kind of action do you want
16 them to take and respond to? Just food for
17 thought.

18 MR. HANSEN: Okay.

19 DR. DICKHOFF: Part of developing
20 the outreach and the communication is
21 developing the best way to communicate that
22 information clear and simple. Because, yeah,

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1 you're correct. The public is very confused
2 and they get mixed messages. They see risk
3 versus benefit and risk gets magnified.

4 So in *Seafood Choices*, the National
5 Academy's Chapter 6, there's a very good
6 description of what the issues are and how
7 better to communicate things, so that's
8 something that we propose to do is look at
9 developing that technology for simplification.

10 MS. FELLER: And, by the way, I
11 wasn't suggesting "Just say no" is the message
12 to get across.

13 (Laughter.)

14 MR. BILLY: Ed.

15 MR. EBISUI: Yeah. Thank you. I'd
16 like to follow up on what Erika just said. I
17 think if it's a matter of postings on websites
18 and encouraging people to go to a website, I
19 think that the people who are going to go and
20 take advantage of it are already well
21 informed. I think it's the other sector that
22 needs to be reached. And I would hope that

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1 the government, which presumably is the
2 authoritative voice, like for example the FDA,
3 would take a position and get it out to the
4 masses, not to those that are already
5 interested in it. Because there's so much
6 misinformation going on out there, and I think
7 other groups are much more effective at
8 publishing their message. But I think the
9 government needs to take a stand to publicize
10 it.

11 MR. BILLY: Is it on this point,
12 Linda?

13 MS. CHAVES: Yeah. One of the
14 things you want to do is work with
15 organizations that are thought leaders, that
16 are telling other people what to do, to make
17 sure that they have accurate, science-based
18 information so that they can make their
19 decisions, because people go to the American
20 Heart Association, they go to the American
21 Dietetic Association, and a lot of those
22 people say: We see all of this stuff, but we

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1 don't have a clue as to what believe. And
2 we've already made some approaches to some of
3 those folks who are interested and they're
4 really looking for information. They're
5 hungry for it.

6 MR. BILLY: Larry, you have the
7 last word.

8 MR. SIMPSON: Ending up on a note
9 of optimism. The eight councils, I assume the
10 eight, I know at least our region and some of
11 the others are working on a group and they're
12 very energetic and charged. And it's getting
13 the information out on not so much about fish
14 but why we do what we do and how we do what we
15 do.

16 So this group, which is a council
17 offshoot, may provide some kind of vehicle for
18 the public, who's pretty much interested in
19 how bad and terrible we do managing fish, at
20 least being a conduit for this kind of
21 information. It's already caused us at the
22 Commission to develop a subcommittee so the

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1 states can kind of get in on the act, and
2 they're enthused right now and they're
3 energized about this. And I think at the CCC
4 meeting next week they're going to talk about
5 it. So there's another conduit and let's use
6 it.

7 MR. BILLY: Okay. All right, let's
8 break for lunch. We're down for an hour, so
9 about ten after 1:00. See you all then.

10 (Luncheon recess taken from 12:08
11 p.m. to 1:17 p.m.)

12 MR. BILLY: Okay, thanks for coming
13 back in time.

14 Next we're going to have a couple
15 of presentations by people located in this
16 immediate area. Bill Douros and Paul Michel
17 --

18 MR. MICHEL: Michel.

19 MR. BILLY: -- of the Monterey Bay
20 National Marine Sanctuary Program.

21 MR. DOUROS: I'll kick it off. Hi.
22 My name is Bill Douros and I'm the West Coast

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1 Regional Director for the National Marine
2 Sanctuary Program. My office is here in
3 Monterey. In fact, it's about 200 yards away.

4 So I appreciate not only that you're in
5 Monterey, but you chose a venue so close I
6 didn't have to worry about parking, I just had
7 to worry about being late. You know the
8 closer you are the more often you're the last
9 one there.

10 And I'm going to talk for just a
11 couple minutes and then introduce Paul Michel,
12 and he's really sort of the heart of
13 presentation on what's going on here locally.

14 We were asked to give you a sense
15 of what's going on in the Sanctuary Program
16 here locally. And I don't know for sure how
17 familiar all of you were with the National
18 Marine Sanctuary Program. I thought I'd give
19 you a couple of minutes on that. For some I
20 know it's going to be redundant. But our
21 program, we're managed by NOAA. We're in the
22 National Ocean Service. The National Ocean

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1 Service protects coasts and oceans; Coastal
2 Zone Management Program, for instance, is in
3 that. And I believe you're hearing tomorrow
4 from Charlie Wahle from the MPA Center; that's
5 also in the National Ocean Service.

6 The Sanctuary Program has been
7 around since 1972, when President Nixon, in
8 fact, signed the legislation creating the
9 National Marine Sanctuaries Program. And over
10 the last 35 or so years there have been 13
11 Marine Sanctuaries designated, shown here by
12 regions around the country, and then the
13 Paphanaumokuakea Marine National Monument, the
14 Northwestern Hawaiian Islands was directed by
15 Clinton. We work through that and we're about
16 to declare it a sanctuary and President Bush
17 declared it a Marine National Monument.

18 And then as part of the recent
19 action that President Bush took before leaving
20 office, there are three large areas designated
21 in the Pacific, one of those, Rose Atoll, was
22 something that he directed be added to the

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1 National Marine Sanctuary system as part of
2 the Fagatele Bay Sanctuary.

3 So this map doesn't show it, but
4 there's also a very large area that will be
5 added, and we've initiated that process as
6 well.

7 But these sanctuaries, by and
8 large, on the East Coast they're smaller,
9 they're offshore predominantly, beyond the
10 three-mile line except for the Florida Keys
11 Sanctuary. On the West Coast they tend to be
12 larger. Four of the five on the West Coast
13 that I'm responsible for come to shore and go
14 out ten miles, 30 miles, 50 miles in some
15 cases.

16 The biggest Marine Sanctuary is the
17 Monterey Bay Sanctuary. It's almost 6100
18 square miles. The Papahanaumokuakea Marine
19 National Monument, to give you a sense of
20 scale, everyone thought the Monterey Bay
21 Sanctuary was gigantic, it's almost 150,000
22 square miles. So 6,000 was big until the

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1 Monument came along, and then it sort of
2 dwarfed everything.

3 By and large, we protect things
4 from what we consider an ecosystem-based
5 management perspective. That's the way it's
6 been since the Sanctuaries Act was authorized
7 in 1972. We have these requirements to raise
8 public awareness and understanding through
9 education and outreach about ocean issues,
10 predominantly those going on in or near the
11 Sanctuary; improving management through
12 research; historical and conservation science;
13 monitoring; as well, both research that we do
14 and that which we coordinate with others,
15 including folks like at the Fishery Service;
16 helping coastal economies by promoting and
17 protecting healthy resources, and helping to
18 show why those matter to coastal communities;
19 and facilitating public use compatible with
20 resource protection. And that's why to us the
21 notion that fishing taking place in a
22 sanctuary to us makes perfect sense. Healthy

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1 fisheries, sustainable fisheries in a
2 sanctuary demonstrate a healthy ecosystem.

3 There are a few sanctuaries, about
4 half of them have regulations that restrict
5 some aspect of fishing, but the other half
6 have no restrictions on fishing. And those
7 that do are predominantly limiting one
8 particular gear type known to cause habitat
9 damage. For instance, a shipwreck site will
10 limit gear that hits the benthic habitat.

11 There are some marine reserves,
12 marine protecting areas in the Channel Island
13 Sanctuary and in the Florida Keys Sanctuary.
14 And we've worked with the Fisheries Service on
15 other protections: Benthic habitat and
16 others. And Paul's going to talk about those
17 here on the West Coast.

18 And so the next slide just gives
19 you a little bit more of a sense, we'll start
20 from large, national to the regional, the
21 areas that we have here on the West Coast
22 include the Olympic Coast Sanctuary, which is

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1 up off the Olympic Peninsula. On the right
2 there gives you, if you care, a little bit of
3 the budget information and how big they are
4 and how many staff we have. Typically five to
5 fifteen staff at these sanctuaries.

6 The Cordell Bank Sanctuary is about
7 500 square miles. That's the one that is
8 entirely offshore and it protects the Cordell
9 Bank itself, which is just north of San
10 Francisco.

11 The Gulf of the Farallones
12 Sanctuary has a staff of about 15. It was
13 designated in 1981 and that's about 1200
14 square miles.

15 The Monterey Bay Sanctuary -- and
16 these three are contiguous here in Central
17 California -- was recently expanded with the
18 inclusion of the Davidson Sea Mount. This
19 remarkable ancient volcano that's about 60
20 miles offshore, the top of which is in 4,000
21 feet of water, is another good example of
22 working with the Fishery Management Council

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1 and NOAA Fisheries to protect the benthic
2 environment through regulations that they have
3 passed, from fishing. We protect it from
4 other activities.

5 And then the Channel Island
6 Sanctuary surrounding the Channel Islands is
7 the oldest one on the West Coast, the second-
8 oldest one designated in the system.

9 So that just gives you a layout of
10 what we've got going here on the West Coast in
11 terms of what those sanctuaries are. We are
12 working on a diverse array of issues from
13 global climate change to coastal development,
14 sea walls, and desalination plants and many
15 other challenges that affect the ocean
16 environment and how we work with partners,
17 state agencies in particular, and federal
18 agencies, is a key part to the kind of work
19 that we do.

20 We're not a regulatory agency, per
21 se. We consider ourselves much more of a
22 resource-management agency. Few regulations.

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1 Far more goes into non-regulatory solutions.

2 So Paul Michel's going to talk
3 specifically about the Monterey Bay Sanctuary.

4 I had been the pleasure of being the
5 Superintendent here at the Monterey Bay
6 Sanctuary for eight years, before three years
7 ago becoming the Regional Director, so I
8 certainly know the challenges that Paul faces.

9 And he's come to us, he's got a long career
10 in the EPA, and is doing a fantastic job at
11 getting this Sanctuary even further down the
12 road than I was able to get it. So he wants
13 to talk about some specific things about the
14 Monterey Bay Sanctuary and how some of that
15 might intersect with fishing issues.

16 MR. MICHEL: Well, thanks, Bill.
17 Once again, you're a hard act to follow.
18 Eight years in the chair and presentations as
19 well. So thank you. It's my pleasure to
20 present to you and to talk about what's going
21 on with the Monterey Bay Marine Sanctuary.

22 Well, the mission of the Monterey

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1 Bay Sanctuary, like others, is to understand
2 and protect the coastal ecosystem and cultural
3 resources of Central California. And we do
4 that primarily through four program areas:
5 Resource protection, which as you can guess is
6 probably most concerned with regulations and
7 permitting, water quality protection,
8 enforcement, emergency response.

9 Research and monitoring, which here
10 is primarily involving coordinating among a
11 dozen or more research, science institutions
12 that do work all on the central coast. And
13 then education, outreach, a major component of
14 what we do is reaching all ages and segments
15 of the population and stakeholders along the
16 central coast to inform and inspire about
17 ocean literacy and ocean stewardship.

18 And then program support involves
19 primarily our operation, so we have a research
20 vessel, the *Fulmar*, which hopefully you'll be
21 able to see. It's down at the Coast Guard
22 Pier, a 67-foot research vessel. And we have

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1 a small patrol boat.

2 And then we also have what's called
3 a Sanctuary Advisory Council, like all other
4 sanctuaries. And that council is made up of,
5 just like this group, a diversity of interests
6 representing all the stakeholders along the
7 central coast; that body meets about six times
8 per year, and so we facilitate that.

9 So of course this area along the
10 central coast is world famous for its natural
11 beauty and its seascapes and the abundance of
12 diversity and diversity of sea life here.
13 Over 345 species of fish, four species of
14 turtles, 94 different species of sea birds, 33
15 different species of marine mammals you can
16 find in this sanctuary -- which is pretty
17 phenomenal -- and more invertebrates and green
18 algae than I can shake a stick at.

19 So, as Bill said, we've got these
20 three contiguous sanctuaries: Cordell, Gulf
21 of Farallones, and Monterey Bay. And we just
22 went through a joint management review and

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1 revision, so we have new management plans and
2 new regulations for these three central coast
3 sanctuaries. So that's a pretty significant
4 chunk of the California coast.

5 And just within Monterey Bay
6 Sanctuary we have in our new management plan
7 we have 26 different action plans that cover a
8 variety of really important issues from
9 coastal armoring to desalination to submerged
10 cables, benthic habitats, MPAs, ocean
11 literacy, water quality again, marine mammal
12 protection. I highlighted a few of these that
13 I thought you might be most interested in:
14 Benthic habitats in marine protected areas and
15 fishing education and research.

16 In the area of benthic habitats,
17 that's primarily focused on the characterizing
18 the sea floor, looking at the effects of
19 bottom trawling on benthic habitats, as well
20 as doing some lost and abandoned fishing gear
21 removal where that's feasible.

22 I'll talk a bit more about MPAs in

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1 a minute.

2 Fishing education and research.
3 One of the things that we're doing there is
4 implementing this printing called Fishermen in
5 the Classroom. It's targeting area high
6 schools where we bring fishermen in the
7 classroom to talk about what it's like to be a
8 fishermen, what's the fishing industry do, and
9 whatnot. So it's pretty exciting.

10 Turning to Marine Protected Areas.
11 There's no more controversial and difficult
12 subject you can take on as Marine Protected
13 Areas. And I'm looking at Marine Protected
14 Areas in the broadest sense of the term. Any
15 special place that's designated to protect
16 habitat or water quality or a specific target
17 species. And looking at that in that broad
18 definition, we did a recent survey and found
19 that there are nearly 300 different Marine
20 Protected Areas, given that broad definition,
21 along the West Coast. But what's interesting
22 to note is that they really span a diversity

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1 of federal, state, and local regimes and
2 management measures, and they span state and
3 federal waters.

4 So at first glance it looks like,
5 wow, the West Coast is pretty locked up in
6 Marine Protected Areas. But you got to dig a
7 little bit deeper to see what's going on.

8 So who manages these West Coast
9 sanctuaries? Well, you can see that what's
10 interesting here is that about twice as many
11 MPAs are managed by state -- or there's twice
12 as many state MPAs as there are federal, but
13 in terms of area federal MPAs cover the vast
14 majority of area. And that's because the
15 federal MPAs include things like fishery
16 management measures, like essential fish
17 habitat, rockfish conservation areas, and our
18 National Marine Sanctuary. So you can see the
19 majority is really in federal management.

20 So when you look at this the
21 overwhelming majority of MPA area covers
22 multiple use. And so when we ask ourselves,

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1 well, what are all of these Marine Protected
2 Areas doing for really focused ecosystem-based
3 management. Well, if you've got 99, almost a
4 hundred percent are multiple use, and about
5 less than half of a percent are no-take marine
6 reserves, which often gets confused with
7 Marine Protected Areas, you begin to see that
8 there's quite a disparity there.

9 Federal MPAs are typically large
10 and multiple use, whereas state MPAs are
11 typically small. And there are no-take MPAs
12 that are primarily managed by states. The
13 largest MPAs are federally managed, like I
14 said.

15 This morning I saw on the news some
16 recent data coming out of the National Center
17 for Environmental Ecological Assessment and
18 Synthesis at U.C. Santa Barbara. And they
19 produced this map of the West Coast that's
20 trying to get a handle on the impact, human
21 impacts to the environment, to the West Coast.

22 And what this article said was that

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1 climate change, fishing, pollution, and
2 commercial shipping topped the list of threats
3 to the ocean off the West Coast. Every single
4 spot of the ocean along the West Coast is
5 affected by 10 to 15 different human
6 activities annually. So we know this, you all
7 know this.

8 Hot spots have a cumulative impact

9 --

10 MR. FLETCHER: Excuse me.

11 MR. MICHEL: Yeah.

12 MR. FLETCHER: I'm kind of curious.

13 How is fishing characterized as a threat to
14 the ocean?

15 MR. MICHEL: It's probably in terms
16 of the biomass that's taken or the impact to
17 habitat. I'd have to dig down into the report
18 to tell you.

19 MR. FLETCHER: Okay.

20 MR. MICHEL: I just want to give a
21 snapshot of this, not just about what we
22 typically think of as fishing, but it's all

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1 these other impacts that are happening, like
2 water pollution, that when you start talking
3 about ecosystem-based management, you have to
4 take into consideration.

5 What I thought was interesting was
6 we tend to think that hot spots of cumulative
7 impact are near urban centers and heavily
8 polluted watershed, but what this map is
9 showing and what this report talks about is
10 that these impacts are not limited to just the
11 near-shore waters.

12 So as marine resource managers we
13 now have to use more comprehensive and
14 holistic approaches, such as ecosystem-based
15 management, Marine Protected Areas, as well as
16 integrate and coordinate among numerous laws
17 and programs, like Magnuson-Stevens and the
18 Sanctuaries Act and the Marine Mammal
19 Protection Act.

20 So we're already attempting to do
21 ecosystem-based management in the Sanctuary
22 using various tools. We have voluntary water-

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1 quality protection, research and monitoring,
2 and strong partnerships with our stakeholders.

3 Recently we announced an effort to
4 renew our MPA planning, to look at what
5 additional protections might be warranted in
6 the federal waters of the Sanctuary, realizing
7 that a state process has just recently gone
8 through and designated state marine protected
9 areas in state waters. So we have identified
10 three ecosystem needs for the federal waters
11 in the Sanctuary.

12 The first one is to protect rare
13 and unique places. Secondly, to maintain
14 and/or restore ecosystem components. That is,
15 community composition, community structure,
16 extended age structure of populations. And,
17 third, to establish research areas to
18 distinguish between natural variation and
19 human impacts.

20 We've been discussing this with our
21 agency partnerships, the National Marine
22 Fisheries Service and the Pacific Fishery

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1 Management Council, and within the National
2 Marine Sanctuaries Program, to try to lay out
3 a roadmap that makes sense for how we're going
4 to do this analysis of what's currently in
5 place in our sanctuary, what additional
6 measures might be needed.

7 And so we know, first off, if this
8 roadmap is going to include things like
9 interagency collaboration, early and frequent
10 communications. And we're trying to identify
11 what complimentary needs and objectives there
12 are, such as essential fish habitat, might be
13 a way to look at how we can incorporate our
14 Marine Protected Areas' needs and to, for
15 example, we know that we're going to have to
16 do robust socio and economic studies, to get a
17 handle on the real costs and benefits of doing
18 MPA planning. And of course best available
19 science.

20 And what's big at sanctuaries is
21 stakeholder participation. So part of this is
22 teeing up a stakeholder process through our

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1 Advisory Council and the establishment of an
2 MPA working group and science panel to help
3 guide this process.

4 And we really need to use NEPA as
5 the driver for this, to make sure we do a
6 really good job on alternative identification
7 and analysis and public participation
8 throughout.

9 So that's kind of where we are. I
10 wanted to give you a snapshot of one of the
11 issues that you might be primarily interested
12 in. And we realize this is going to be
13 difficult. It's going to be controversial and
14 complicated, but I think we also have to take
15 into consideration the differences of
16 management goals and objectives that reside
17 within NOAA and that we need to try to
18 integrate those to do the best job we can for
19 the marine environment, especially in
20 sanctuaries. If we can't do it in special
21 places I'm not sure where we can do it.

22 And I think, as Bill said, and this

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1 is what our mantra is, that we sincerely
2 believe that a healthy and vibrant ecosystem
3 also means healthy and vibrant fisheries. And
4 so what we're really interested in having that
5 happen here on the central coast, where we
6 have these remarkable places and this
7 remarkable sanctuary.

8 So I just wanted to give you a
9 snapshot of where we are with that and where
10 we are with the sanctuary management. And,
11 with that, I'll open it up for questions or
12 comments.

13 MR. BILLY: Okay. Comments,
14 questions?

15 Yeah, Randy.

16 MR. CATES: My question is in
17 Hawaii we have a sanctuary, a whale sanctuary.

18 As we advance in society, as this morning we
19 heard there's a growing need for production of
20 seafood. We haven't really gotten to that
21 point yet of the power to increase production,
22 but I think some day we're going to get to

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1 that point where we have to have the nation
2 start thinking about providing more food, as
3 food security, there's a bunch of reasons.

4 How will the Sanctuary fit in there
5 and how will they allow and incorporate new
6 technologies, in particular, aquaculture,
7 because in Hawaii our sanctuary has pretty
8 much put a blanket 'Not in our sanctuary' and
9 have been very forceful on that. So my
10 question is we have aquaculture, we have wind
11 energy, we have all these competing uses.
12 Does the sanctuary program have an open mind
13 on that and can it coexist or is it going to
14 be just 'This is my area and you guys stay
15 out'?

16 MR. DOUROS: Yeah. So that's part
17 of what you're identifying, is part of this
18 multiple-use challenge that we face, is in one
19 of my earlier slides that we promote multiple
20 uses to the extent they're compatible with the
21 goal to resource protection.

22 And so the challenge is -- it

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1 depends on your perspective, right? If you're
2 looking at it from a national perspective and
3 you look at the country and you look at these
4 dots that are sanctuaries, some big, some
5 small, you might think, well, there's got to
6 be space in there to allow oil and gas
7 development, right, because that's a competing
8 use, all kinds of fishing, discharge and
9 disposal from harbor dredge materials,
10 building fiber-optic cables, wind turbines,
11 wave energy, aquaculture, et cetera, et
12 cetera. The uses are many. And you might
13 look around the country and think, well, okay,
14 most of those can take place in most waters,
15 but maybe many of those, not all of them,
16 won't take place in National Marine
17 Sanctuaries. Those were designated by
18 Congress and the Agency as special places for
19 the purpose of protecting the resources there
20 but allowing human uses to the extent they're
21 compatible.

22 So we look at most of these issues

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1 if not all of them on a case-by-case basis.
2 There's no one policy that says in no way can
3 you have no oil and gas development. Most of
4 these prohibit oil and gas development. The
5 Flower Garden Banks allows it and the Channel
6 Islands regulations allow it and, to some
7 extent, the Gulf of the Farallones would allow
8 for some aspects of oil and gas development.

9 Wind and wave energy, a brand new
10 technology, we're in the middle of assessing
11 that.

12 Aquaculture, again there's no
13 blanket policy that would prohibit it in
14 sanctuaries. In some places other communities
15 are very concerned about it, depending on the
16 type of aquaculture activity that you would
17 have.

18 For instance, one of the things
19 we're very worried about are non-native
20 species aquaculture projects. A native
21 species aquaculture project in a sanctuary may
22 not be nearly as bad as one where, let's say,

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1 you brought Atlantic salmon to the West Coast
2 and put those in a National Marine Sanctuary.
3 NMFS alone might not, NOAA alone may not like
4 that, but if it did, in a sanctuary, maybe we
5 would avoid that kind of activity in a
6 sanctuary. So these are all evaluated on a
7 case-by-case basis. There aren't really any
8 broad 'no-no's in terms of activities. There
9 are just prohibited activities that are broad
10 by definition: Don't disturb the sea bed,
11 don't have discharges into the sanctuary. And
12 in almost cases we can issue a permit for an
13 activity otherwise prohibited, depending on
14 the special circumstances and if it met that
15 target goal of not having an appreciable
16 impact on resource-protection qualities.

17 MR. CATES: Just a follow-up to
18 that, I would highly encourage the process of
19 how you make those decisions, my experience is
20 it's very flawed in Hawaii. It's not science
21 based. In fact, when they make -- they have
22 an aquaculture committee, but won't allow

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1 anybody from the aquaculture industry to
2 participate on these meetings or discussions.

3 And we have a wealth of knowledge that we can
4 hand to them to show that we're not these big
5 dangerous and scary thing, and there's a
6 shoved door saying, 'Oh, we have a committee
7 that will look at that.'

8 MR. DOUROS: That shut door, is
9 that a state-driven process or one that the
10 sanctuary program runs?

11 MR. CATES: It's a sanctuary
12 program. So our biggest concern is the
13 process, allowing this interaction of
14 communication and technology, whether it's
15 aquaculture or wind, how you make those
16 decisions are vitally important.

17 MR. DOUROS: And just so that I
18 know how to follow it best, are you talking
19 about the Humpback Whale National Marine
20 Sanctuary?

21 MR. CATES: Yes.

22 MR. DOUROS: Okay.

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1 MR. BILLY: Ed.

2 MR. EBISUI: Thank you.

3 I just wanted to make a couple of
4 comments. You were speaking of the Humpback
5 Whale Sanctuary, which is between Molokai,
6 Oahu, and Maui. I was just speaking to some
7 federal officials. And it seems that this
8 year, which is pretty typical, the whale
9 strikes on Humpback whales have been
10 predominantly by ecotour boats, not fishing
11 vessels, not tugboats or barges or any other
12 type of commercial activities, but the whale
13 watching tour industry account for about 80
14 percent of the strikes.

15 With respect to the Northwestern
16 Hawaiian Islands Monument, I personally have
17 no problems with it being a sanctuary as it
18 was envisioned under the Clinton
19 Administration, but when it became a monument
20 what it did was it curtails all fishing in the
21 area. And we have a highly sustainable,
22 environmentally friendly fishery, no

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1 interaction with whales, birds, mammals,
2 that's going to be kicked out come 2011. All
3 of the fish that's -- half of the deep water
4 bottom fish that's produced by the State of
5 Hawaii comes from that Northwestern Hawaiian
6 Islands, so that fishery is going to end,
7 which is going to increase our dependence on
8 imports from other areas.

9 And the monument also opens the
10 door to and encourages ecotourism, including
11 cruiseliners, which will be bringing seaweed,
12 algae, and who knows what else with them, not
13 to mention also the environmental effects of
14 anchorage, mooring, and everything else. It
15 just seems to be so incompatible to curtail
16 healthy, responsible, sustainable fishing and
17 then to bring in the passenger liners into a
18 so-called pristine place like that.

19 Any thoughts being given in the
20 Service or in the Agency about the obvious
21 conflict between allowing, encouraging tourism
22 in an otherwise pristine area and at the same

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1 time curtailing fishing?

2 MR. DOUROS: Yeah. So you had
3 three points. And just on those, that any
4 strikes on whales are a big deal, not only to
5 the Sanctuary Program but to the National
6 Marine Fisheries Service. It's very concerned
7 about that. We both have a management
8 responsibility there, and so that's nothing
9 we're excited about. And obviously those are
10 enforced pretty aggressively.

11 The decision on fishing was made by
12 the President, so that was -- you know we then
13 had to work with that.

14 We had various alternatives that
15 were into EIS as a sanctuary. That was one of
16 them. But there were other ones that we were
17 assessing that would have allowed some level
18 of fishing.

19 And the third point, though, on
20 ecotourism, I know that that is a very
21 significant concern to us. And I know the
22 Monument staff are working very hard to come

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1 up with some sort of a program that will not
2 cause those problems you're talking about.

3 As a matter of fact, I think we've
4 gotten a lot of grief back from researchers
5 who have to go through pretty extensive
6 efforts to even get a research ship into the
7 sanctuary, into the Monument, and that
8 ecotourism operators are similarly concerned
9 because they don't want to clean the hull each
10 time they go in. They don't want to, and some
11 can't hold their ballast water --

12 MR. EBISUI: Ballast water.

13 MR. DOUROS: -- discharge in there,
14 I would say their sewage and gray water
15 discharge, it's very difficult. Very few
16 ships can handle that. And those are the
17 limits we're putting on them. So to whatever
18 extent that's a plus, if it's a consistent
19 level of pain that's designed not to create
20 pain but, rather, to protect the ecosystem.

21 I don't know that there are final
22 rules out that actually promote it as opposed

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1 to trying to, if it's allowed, ensure that
2 there aren't any of these unintended ancillary
3 impacts.

4 MR. BILLY: Patty.

5 MS. DOERR: In regards to the
6 federal roadmap that you have up there, do you
7 guys have plans and analysis of the available
8 science that you do have in terms of habitat
9 data and fisheries data and all that, so that
10 you can have some sort of, I guess, staff
11 analysis -- would be the best way to put it --
12 so you're not just relying on the best
13 available science, but you can go out there
14 and get some additional data and science that
15 you may need to make better-informed
16 decisions?

17 MR. MICHEL: That's right. One of
18 the first steps we're embarking on is to get a
19 baseline of the most current information, as
20 well as look at what are the current
21 management measures that are in place as a
22 starting point for analysis.

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1 So, for example, we're exploring
2 the idea of this integrated ecosystem
3 assessment as a way to build the data that
4 cannot only serve our needs but maybe also
5 NMFS' needs. We're looking at this by each
6 region.

7 MS. DOERR: And then to take that a
8 step further, you can go and then get that
9 data that you identified as a need. So the
10 best available science becomes even better? I
11 mean is that kind of the overall --

12 MR. MICHEL: That's my hope. Yeah,
13 I think we have to look at that, that the
14 seascape in effect has kind of changed since
15 this issue was raised seven years ago.
16 There's less fishing that occurs in a
17 sanctuary; there are all these new management
18 measures. The largest troll permit holder in
19 our sanctuary is the Nature Conservancy. And
20 yet we still have these unmet ecosystem needs,
21 but we're going to look at that as the
22 starting point for where we look at additional

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1 protections that may be needed. And that
2 includes the latest science that we can get a
3 hold of.

4 MR. BILLY: Bill.

5 MR. DEWEY: I'm Bill Dewey with the
6 Taylor Shellfish Company in Washington state.

7 I just wanted to echo Randy's concerns
8 earlier. A number of years ago NOAA was
9 looking at a marine sanctuary for northern
10 Puget Sound and I participated in that
11 process. And, as I recall, it was a number of
12 years ago, but obviously we were concerned
13 about our future, being able to farm shellfish
14 in that area if it got designated and was
15 basically told by NOAA that it would be a
16 stakeholder-driven process, and the loudest,
17 most effective voice ultimately prevails at
18 the end of the day whether you get to do it or
19 not.

20 So it's like get in and fight as
21 hard as you possibly can. It just seemed that
22 was a very intimidating invitation to the

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1 process which was flawed in my opinion. But
2 we fought hard and ultimately a lot of --

3 MR. DOUROS: And you prevailed,
4 right? There's --

5 MR. DEWEY: -- people shared the
6 same concern, the fishing community and so on
7 shared the same concern.

8 MR. DOUROS: Yes.

9 MR. DEWEY: So we said, you know,
10 no thanks, we pass on this and pushed hard to
11 not have it happen because of those concerns.

12 The thing related to that is just
13 that NOAA's all one agency. It has a lot of
14 different stovepipes within that agency and
15 we've worked hard, MAFAC has asked NOAA
16 recently to develop a ten-year plan for marine
17 aquaculture development. Clearly increasing
18 domestic aquaculture production and domestic
19 seafood production in the United States is
20 important to get away from this reliance on
21 imports and so on. And I would hope that
22 within NOAA those national priorities would

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1 cross between these stovepipes and that NOS
2 and the Marine Sanctuary Program will
3 recognize those needs and try to somehow
4 prioritize that use when it's compatible
5 within the sanctuaries. My thoughts.

6 MR. DOUROS: Yeah. Maybe it was
7 said many years ago there, but our view today,
8 I think it was true back then but you never
9 know and as word gets passed on, is it's not
10 -- the stakeholder process isn't one where the
11 loudest voice prevail. Oftentimes people in
12 the process behave that way. 'If we show up,
13 we have a lot of folks there, we scream and
14 yell, we'll get our way,' and we really try to
15 discourage that. You know the stakeholder
16 process works when everyone shares interests.

17 It's that true concept of interest-based
18 discussions rather than positional
19 discussions.

20 And we often encourage everyone to
21 look at solutions as one you could live with,
22 not your favorite, but can you live with it,

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1 and if you can't, let's fix it so that -- we
2 get pinged on, frankly, from people in the
3 Office of Management and Budget in the White
4 House that our process takes too long and it
5 leads to less than crisp results -- that's
6 what I've heard before. And so the other side
7 of it is to get everybody at the table and
8 work it, work it, work it and at some point
9 you've called the question, you make a
10 decision, it's a crisper result, it happens
11 quicker, and you get lawsuits and ticked-off
12 parties, et cetera.

13 So we don't often get sued. We
14 take longer than we probably should. And we
15 have sometimes little squishier results. But,
16 by and large, constituents can live with the
17 results that we come up with.

18 And I think maybe that's an example
19 in the Northwest Straits there where it does
20 still exist in some format, a sanctuary
21 concept, it's just not run by the Sanctuary
22 program and there's an earmark that one of the

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1 senators gets every year and local
2 governments, by and large, run that. Maybe
3 that's okay.

4 MR. BILLY: Two more. Heather and
5 then Tom.

6 MS. McCARTY: Thank you. I'm
7 Heather McCarty and I'm from Alaska. And I
8 have kind of a series of related questions.
9 One is, the first one is, are these sanctuary
10 designations ever initiated by the
11 stakeholders or are they normally initiated by
12 the federal agencies?

13 And, second, once the designation
14 is made, for example a monument designation,
15 is that ever changeable? Is it changeable by
16 stakeholder initiation or is it changeable by
17 federal agency initiation, or can it be
18 changed?

19 And, finally, within those
20 designations, the particular rules for each
21 one of them, which you indicated were
22 different, and I know that's true in various

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1 places, are they changeable and, if so, what
2 is the process that one would have to go
3 through to change those usage regulations?

4 MR. DOUROS: Yeah. So on the first
5 question, the one with the sanctuaries, this
6 one in particular, Monterey Bay, is entirely a
7 bottom up. The citizens came and beat up on
8 NOAA for years, long before I worked for NOAA,
9 that 'We want to have a marine-protected area
10 sanctuary here.' And in the end they can't do
11 anything. Either NOAA, the Agency -- in this
12 case the Department of Commerce designates to
13 NOAA that it can go through a process to
14 designate a sanctuary or Congress can either
15 do it or compel the Agency to designate it.

16 And so most of them, I think eight
17 of the fourteen or so came from the
18 administrative process. The others came from
19 Congress directing that it be done.

20 The second question I think was
21 once they're there can they be...

22 MS. McCARTY: Either changed like

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1 from a sanctuary to a monument or --

2 MR. DOUROS: Right, right.

3 MS. McCARTY: -- or back or done
4 away with entirely or...

5 MR. DOUROS: Yeah. So monuments
6 may only be designated by the president.
7 That's part of the Antiquities Act. And
8 they've only been used very recently with the
9 Northwestern Hawaiian Islands and then these
10 other three in the ocean.

11 The sanctuaries, as I said, are
12 designated through the National Marine
13 Sanctuaries Act. And it's theoretically
14 possible that a monument -- again, it's new --
15 could also then be designated as a sanctuary.
16 In fact, President Bush directed NOAA to do
17 just that by first creating the Rose Atoll
18 Monument and directing that it be converted to
19 a sanctuary, and that's the process that we're
20 going through now. So you can go in that
21 direction. You don't really go the other
22 direction. There wouldn't be much of a

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1 precedent, I suspect, to go the opposite
2 direction.

3 They could in theory go away,
4 though I don't know if we've got a procedure
5 for exactly how that would work. That's never
6 happened before. You could shrink the
7 boundaries, you could change the regulations
8 within them through an administrative process.

9 And I don't think they've ever been shrunk
10 appreciably. The regulations have changed,
11 though, often.

12 And what we've typically found is
13 that there's a lot of nervousness in many
14 communities when these things are designated,
15 but over the years they realize actually this
16 isn't all that bad. And we have communities
17 coming to us asking us to expand the
18 boundaries and expand the regulations, make
19 them more protective or more this or more
20 that. And so that process to change
21 regulations, which was your third question,
22 the sanctuaries when they're designated are

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1 very customized, the regulations fit the needs
2 at the site, and there's no one way that it's
3 got to be. The community's got a huge role in
4 advising us on how that takes place.

5 And then each five to ten years
6 we're supposed to be modifying and revising
7 the management plans, that Paul just
8 mentioned, we just completed in the central
9 coast, and that process includes an evaluation
10 of the regulations. And for this process,
11 this Sanctuary there were 10 or 12, 10
12 regulations, there now are 14. And of the 10,
13 three or four of those were changed to make
14 them better. So, again, that's a very open
15 process. They come through the public-scoping
16 process through their advisory council who
17 advises the superintendent. Then it goes out
18 in an environmental impact statement. There's
19 six or seven opportunities to comment on those
20 regulations.

21 I think most people would tell you
22 whether they like the result or not, they

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1 certainly don't fault us for having a chance
2 to comment on it and have a shape in the
3 outcome.

4 MS. McCARTY: May I, just a follow-
5 up? One of the fears in Alaska and I'm sure
6 elsewhere is that once you have a designation
7 of any kind -- this is just sort of a general
8 fear -- that it's established and then may
9 have sort of easy-to-follow rules and then it
10 gets progressively more stringent and
11 progressively more difficult, particularly for
12 the fishing community. So that's a huge fear.

13 MR. DOUROS: Yeah.

14 MS. McCARTY: So I just wanted to
15 kind of explore which direction it usually
16 goes and how it can change once it's in place.

17 MR. DOUROS: Yeah. So, for
18 instance, that was a big fear again here on
19 the central coast, and we just updated these
20 management plans. We changed, as I said,
21 added four or so new regulations, changed two
22 or three others, and those don't affect

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1 fishing. That was the original designation
2 here, was that we weren't going to regulation
3 fishing. We've gone through that process and
4 haven't changed that requirement. In fact, we
5 had two or three fishing issues and we solved
6 those by going to the National Marine
7 Fisheries Service and/or the State of
8 California and found solutions that we were
9 both happy with under their regulatory
10 authority. And that's, by and large, very
11 acceptable to the parties whether they're
12 fishermen or fish processors or regulatory
13 managers that have a fisheries-management
14 responsibility accept that. That's okay, that
15 we bring issues to them and they solve it with
16 their regulations.

17 MS. McCARTY: Okay. Thank you.

18 MR. BILLY: Okay. We need to move
19 on, but, Tony.

20 MR. DiLERNIA: Heather asked my
21 question. Thanks.

22 MR. BILLY: All right. Randy, can

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1 you deal with it at the coffee break or do you
2 want to...

3 MR. CATES: I think it's important.

4 MR. BILLY: Okay.

5 MR. CATES: Just real quick. One
6 observation we're having in Hawaii also is
7 what we view as the mission creed. As a whale
8 sanctuary is inadequately funded and trying to
9 find new sources of funding, they're seriously
10 expanding their mission not to just humpback
11 whales but now to other species as an avenue
12 to bring in more funding. And that's a big
13 concern to a lot of the user groups, fishing.
14 For example, they're looking now at fish
15 species to manage and not just whales.

16 MR. DOUROS: Yeah. So I could tell
17 you with a hundred percent certainty that
18 issue of expanding their responsibility is not
19 to increase funding. That's not how the
20 system works for us. That would actually
21 probably work against us -- if that was our
22 goal. Because as it has worked in the past

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1 and other places, that's not part of what we
2 go after.

3 I know there that the public
4 process that leads to input as to what to do
5 when we revise a management plan, we got
6 considerable input, including from the State
7 of Hawaii, that we should consider -- not to
8 certainly do -- but consider adding other
9 marine mammal species. And I think there were
10 some comments about more than just marine
11 mammals. Right, adding turtles and maybe
12 fish, et cetera, to the sanctuary. And so
13 we're assessing that. What does it mean,
14 we've got an advisory council that's advising
15 it.

16 And it's not to say that everyone
17 would agree with that. It sounds like you
18 have considerable concerns if that mission
19 were to move from just whales to more species,
20 but we do get many people telling us, 'You're
21 not doing enough, you got to do more.' We
22 hear all the time, Paul hears all the time

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1 while he hears from fishermen, 'Whatever you
2 do, don't regulate fishing,' he hears from an
3 even bigger constituency that says, 'You're
4 failing until you regulate fishing,' and we
5 get that. I call it sort of the Goldilocks
6 scenario, right, where it's too hot for some,
7 too cold for others. And sometime in the
8 middle where we started is not a bad place to
9 be.

10 I know that's what's going on in
11 Hawaii and we're assessing what does that
12 mean. But I just want to make sure you know
13 it's not to get additional funding. That
14 doesn't help us at all.

15 MR. CATES: It's openly being
16 discussed in the meetings --

17 MR. DOUROS: Yeah.

18 MR. CATES: -- as an avenue for
19 more money. I mean it's not a secret to
20 anybody, they're openly saying, 'We expand our
21 mission, then we can get these different
22 sources of money to support the overall

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1 objective.'

2 MR. DOUROS: They may be coming
3 from others. I know in the Sanctuary Program
4 we don't view that as being an outcome we
5 intend or are seeking for that purpose.

6 MR. BILLY: Okay. I think we need
7 to move on.

8 Thank you very much.

9 MR. DOUROS: Thank you very much.

10 MR. BILLY: That was very
11 informative.

12 Alright. Next we're going to hear
13 from Churchill Grimes, from the NMFS Santa
14 Cruz Lab, talking about the collapse of the
15 Sacramento River Fall Chinook Fishery.

16 Churchill.

17 DR. GRIMES: Good afternoon. I'm
18 Churchill Grimes. And I direct the National
19 Fisheries Service Lab that's at Santa Cruz.
20 It's one of three elements of the Southwest
21 Fisheries Science Centers, about 50 miles
22 north of here. And the next time you have a

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1 meeting here, we'd be happy to have you. We
2 have facilities actually nicer than this, and
3 we probably would only charge Headquarters
4 half as much.

5 (Laughter.)

6 DR. GRIMES: So if --

7 DR. DICKOFF: We'll be there
8 tomorrow.

9 (Laughter.)

10 DR. GRIMES: So at least if you
11 live on the West Coast and you haven't been
12 living in a cave, you've probably heard about
13 the collapse of the Sacramento River fall
14 Chinook salmon fishery, probably a lot more
15 about it than you'd like to hear. So what was
16 the problem? Why did this happen? This slide
17 shows in-river harvest on the top; the ocean
18 harvest in the gray bars, portion of the bars;
19 and escapement, which is a salmon fishermen --
20 the salmon science lingo for the number of
21 animals that escape the fishery and actually
22 turn to the freshwater to spawn.

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1 And in 2007 the more or less
2 unprecedented low returns to the river caused
3 the Pacific Fisheries Management Council to
4 close the fishery on the entire West Coast,
5 which has never been done before. And as a
6 consequence of that we were -- they asked the
7 National Marine Fisheries Service to convene a
8 working group that would consider the causes
9 of the decline. They offered us a list of
10 about 50 reasons that they thought it might
11 be. And so we did form this working group.

12 Incidentally, the actual return in
13 2007 was 88,000 fish. The projection for 2008
14 was 66,-. And it turned out to be -- the
15 realized return was like 120,-. The
16 conservation standard we expected -- one of
17 these is 120 to 180. So, in fact, in 2008 it
18 was so low so that the fishery was still
19 closed in 2009. But we started this process
20 before the decision was made this year.

21 This is the constitution of the
22 work we did, myself and John Stein, this

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1 gentleman on my right, who was also a co-
2 chair. We had quite a few NOAA members from
3 the Northwest Center and the Southwest Center.

4 One person from OAR, a climate person. We
5 had representation from the Council itself,
6 California Fish and Game, Oregon Department
7 Fish and Wildlife, Washington Department of
8 Fish and Wildlife, U.S. Fish and Wildlife
9 Service, and a few academics: Lou Batsford
10 from U.C. Davis, Dave Hankin from Humboldt
11 State, and Jim Anderson from University of
12 Washington.

13 So we didn't go out and collect the
14 regional data to do this. We used existing
15 information, so we sort of used a -- did a
16 meta-analysis. And this is a conceptual
17 approach we used. We used a lifecycle
18 approach. These are all the stages in life
19 history, the eggs, et cetera, in hatcheries in
20 captivity. And these are the stages for the
21 natural-spawning fish. And these are all the
22 potential reasons, or environmental factors,

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1 man-induced factors that might impact the
2 various life stages. So our approach
3 was to sequentially work through the different
4 life stages, looking for a set -- looking for
5 change from the long-term average in abundance
6 of different life stages and to take a similar
7 approach with these man-caused and natural
8 factors to sift our way through those and look
9 for a sudden departure from normal conditions
10 or long-term average conditions in those,
11 reasoning that the likely cause lay at the
12 intersection of these two things.

13 So things apparently went wrong
14 between the fish entering the Bay and the time
15 they returned from the ocean to regroup at age
16 two.

17 This slide summarizes the abundance
18 for the different life stages. And what I've
19 done here is this is shown as a fraction of
20 the average, so it's a way of just
21 standardizing the data, so that the numbers
22 don't look real different, because they were

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1 all different kinds of measurements.

2 So the blue line is the average,
3 the long-term average. And you can see the
4 parental abundance for 2004 and 2005. And
5 these were the brood years that we were
6 concerned with. 2004 brood year actually
7 enters the ocean in 2005. The 2005 brood year
8 actually enters the ocean in 2006.

9 So parental abundance wasn't
10 different from the long-term average, nor were
11 hatchery releases from the five hatcheries in
12 the Central Valley. The catch-per-unit
13 effort, this is a survey that the U.S. Fish
14 and Wildlife Service has operated for many
15 years in the Delta and the Bay. And again the
16 catches were not radically different from the
17 long-term average, yet as you see here
18 suddenly there was a big drop in abundance.

19 This is Feather River hatchery's
20 survival of -- these are hatchery fish
21 returning to the hatchery. It was -- they
22 were low. Jacks meaning two-year-old fish,

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1 the precocious males coming back, they were
2 low. And, of course, the adults, the actual
3 escapement to the fishery, was also unusually
4 low.

5 Well, what was unusual
6 environmentally was that the California
7 current was very weird in 2005, so much so
8 that there was a whole issue devoted to this
9 from geophysical research letters and sort of
10 scurrilous -- these slides -- this slide from
11 that journal that one of the things they talk
12 about was sea lion foraging, which was very
13 unusual in 2005. The sea lions were foraging
14 way offshore, as opposed to the normal pattern
15 of foraging in close to shore. Emaciated
16 whales were observed. This panel up here
17 shows seabird nesting. This shows the
18 breeding success in blue in the upper graph.
19 And you see in 2005 it was a zero. And sort
20 of the opposite of that abandonment rate. And
21 the abandonment rate was a hundred percent in
22 2005. These are castings off-lets. These eat

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1 juvenile pelagic juvenile rockfish primarily,
2 the same thing that juvenile salmon eat.

3 And in this lower right panel this
4 is data actually from a survey that we've
5 conducted in our lab for over 25 years of
6 pelagic juvenile rockfish primarily, but it
7 catches other species of groundfish, too.

8 And the color codes are just
9 different species, so that really doesn't
10 matter that much. The point is in 2005, there
11 was a record low, lowest in the 25-year time
12 series. And this is just the sum of all the
13 juvenile fish, and the abundance was the
14 lowest we had ever seen.

15 This slide shows coastal upwelling,
16 another thing that was unusual. These
17 latitudes, these brackets, Oregon north and
18 south here. This is Northern California --
19 the end of Northern California. And this
20 latitude is about where we are right now in
21 Monterey Bay.

22 The cumulative upwelling is shown

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1 in different -- it's color-coded. Green is
2 2005; red is 2006, 2007 is blue. And the
3 black line is the long-term average. So you
4 can see that in 2005 the upwelling, the
5 cumulative upwelling, was well below the
6 long-term average about the end of Oregon.

7 And the down low, also well below
8 the long-term average in California. Again it
9 started late and was well below the average.
10 And the same for Central California. And it's
11 important to say that it's not only the fact
12 that the upwelling is low, which is the
13 productivity that drives the whole ecosystem,
14 but the fact that it is low off Oregon means
15 that the water being transported down the
16 coast to California is also unproductive.

17 So 2006, also a brood year we were
18 concerned with, wasn't as bad off of Oregon,
19 although it got started late, it started late
20 in the year. But in California it continued
21 to be pretty bad. It was below average most
22 of the time and especially here off of Central

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1 California it was low. And 2007 was a pretty
2 normal year. Things got back to the way they
3 had been in the past.

4 Sea surface temperatures off of
5 California actually have been warm ever since,
6 well, 2003 through 2006, but they were
7 especially warm off Central California in
8 2005. This slide shows a condition factor.
9 This is actually work that we've done in Santa
10 Cruz.

11 We've done a survey of juvenile
12 salmon off of Central Coast here for -- it
13 lasted for ten years. And this condition
14 factor is their weight divided by the cubal
15 link. It's their relative fatness, you might
16 say.

17 So these are the ten-year averages,
18 these black spots, these white and black spots
19 you see here. And the solid line is the --
20 just the 2005 data. So you can see that these
21 fish were in good condition or relatively
22 average as they entered the estuary and they

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1 exited the estuary they were still
2 approximately in the same average condition.

3 But by the time they reached the
4 ocean in the summer, they were well below what
5 had been the long-term average condition. And
6 by the time they had been in the ocean all
7 summer they were back to about average
8 condition, most likely because the ones in
9 poor condition had died.

10 So just to sort of wrap this first
11 part of it up, what we concluded was thus
12 looking at the first part of it was that in
13 spring of 2005 and 2006 the Sacramento River
14 fall Chinook entered the ocean in very poor
15 ocean conditions, poor upwelling, poor sea
16 surface temperatures which made the oceans
17 unproductive. And the normal food chain it
18 develops and the supply of food for juvenile
19 salmon, seabirds, juvenile rockfish, basically
20 instead of finding a feast they found famine
21 and they all starved or a large proportion of
22 them starved.

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1 And this resulted in the low
2 survival that we observed to age two and
3 older. So the working group contributed the
4 approximate cause of the failure of these two
5 brood years, 2004 and 2005, to poor ocean
6 conditions.

7 It's not to say that we are
8 ignorant of other potential problems in
9 freshwater, which I'll talk a little bit about
10 now.

11 So what was the role of some of
12 these issues in freshwater that you've all
13 heard a lot about, read a lot about in the
14 newspaper, I'm sure, hatcheries, habitat, and
15 so on.

16 I put this in here, because if you
17 live around here you heard a lot about this.
18 The water pumping from the Delta, pump, pump,
19 pump. Everybody wanted to blame the water
20 pumpers. And, believe me, we don't intend to
21 be apologists for the water pumpers. We don't
22 think that's a good thing, either. But just

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1 to show you, we did look at that. The upper
2 panel in this confusing slide, you could
3 probably ignore. This is the total exports
4 from the Delta. And the lower graph is
5 actually a better measure of this issue.

6 It shows you the water exports
7 relative to the inflow. So it's a much better
8 measure, you know, what's going in to what's
9 being taken out. Actually it's a better
10 indication of water that's available there for
11 the fish. The dash line shows the upper and
12 lower limits that have been observed before
13 pumping. Color-coded for -- 2004 is green,
14 '05 is red, '06 is blue, and '07 is whatever
15 that color there is. And the dark black line
16 is the long-term average.

17 Well, anyway, what I want to show
18 you is that -- and you heard this a lot and
19 you read this a lot in the newspaper -- that
20 all these pumping rates were way higher than
21 the normal. And that's true, and this is
22 during from about July on. But back here in

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1 the spring, in May and June, you see that most
2 of these rates are down below that black line,
3 so they were actually pumping less than they
4 usually pump. And why that matters, this
5 slide shows you when the out-migrants were
6 actually in the river system. All you need to
7 pay attention to is the dots there. They
8 represent the individual fish in 2005. And
9 the different colors are just different runs,
10 and hatcheries, and that sort of thing.

11 But the take-home message here is
12 that you see the fish were in the river from
13 the late winter through the middle of June.
14 So the fish were gone from the system when
15 they were pumping a lot of water out of the
16 system.

17 Another thing that you might have
18 heard, if you were following this in the
19 paper, was that they truck the fish around the
20 Delta. Fisheries put the fish in the trucks
21 and take them around the Delta, reasoning that
22 the Delta is in such bad condition that the

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1 mortality rates are horrendous. And I think
2 that's probably accurate. But there were
3 other problems associated with trucking that
4 I'll get to in a minute. But, in any case,
5 they do it.

6 And then they bring the fish down
7 and they place them in acclimation pens,
8 floating pens. And they leave them there for
9 a relatively short period of time to acclimate
10 to the conditions in the Bay before they cut
11 them loose and let them go on their merry way.

12 And so this slide shows the total
13 releases in blue, the proportions released in
14 the Bay and the proportion in red here that
15 was actually placed in pens.

16 Well, Fish and Game was severely
17 criticized for -- in 2005, you see, they
18 didn't acclimate any in the pens. And
19 everybody was, you know, concerned about that.

20 Well, that was really a potential cause of
21 the failure of the brood year.

22 But if you look back here in 2002,

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1 they put very few in the pens in 2002. And
2 that was a record return here to the system.
3 There were like 800,000, almost a million
4 Chinook fall run that returned to the system.

5 And so it's not entirely clear what the role
6 of pen acclimation was. It doesn't appear to
7 be an obvious cause.

8 Now some things that probably do
9 matter a lot. Let's -- this slide shows the
10 abundance trends in the Central Valley Chinook
11 population. And there are four runs, four
12 distinct runs in the system. There's the fall
13 run, which is the main-stem run. The spring
14 run used to spawn in the streams that drain
15 the Western slope of the Sierra. Winter run,
16 it spawns in the northern -- Sacramento River
17 above Shasta Dam in the late fall. And so
18 these are all color-coded on here. The fall
19 run's in blue. Late fall is green. The
20 spring run's red, and the winter run's black.

21 A couple things I want to point
22 out here, is that the dynamics of all these

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1 blue fall runs is very synchronous. They all
2 go up and down together. They all collapse at
3 the same time. The only thing that's really
4 different, Clear Creek that this is a natural
5 population that -- where there's been a
6 tremendous amount of habitat restoration done.

7 Another important thing to take
8 here is that the other runs are not
9 synchronous with the fall run. They don't
10 appear to do the same thing. And the third
11 thing here I wanted to show you, is that there
12 are different life histories in these
13 different runs. Spring runs, for example,
14 some of them are the -- they go out as
15 yearlings. They're so small when the spring
16 comes that they're -- they over winter come
17 out as much larger fish and are better able to
18 sustain bad conditions, should they encounter
19 those.

20 So the size the ocean entries can
21 be different. And the timing of out-migration
22 can be different. So why this spreads the

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1 risk is that -- if everybody is doing the same
2 thing, there, you're at risk of coming out
3 into the ocean and encountering the perfect
4 storm where all the conditions are misaligned
5 or are precisely aligned as opposed to having
6 more runs than the average is a sort of
7 bad-hedging strategy that spreads the risk of
8 encountering bad conditions in the ocean.

9 Well, what is it that's
10 synchronizing all the dynamics in the
11 Sacramento River fall Chinook population?

12 Well, this shot shows that hatcheries, as a
13 proportion of the total releases to the system
14 and the total returns, I mean, and you can --
15 the point is just that hatcheries have become
16 an increasing proportion of the total returns
17 to the system.

18 And this is actually a fairly gross
19 underestimate of it, because many of the fish
20 stray and don't actually return to the
21 hatcheries. They go astray and spawn in
22 natural areas. So it's really probably a lot

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1 worse than this.

2 Well, the hatcheries, they tend to
3 reduce diversity. Hatcheries tend to simplify
4 and standardize the environment. They try to
5 be as efficient as possible. They do
6 everything the same way, tip all the eggs the
7 same way. The fry are placed in raceways and
8 they're fed pelletized food in the same
9 amounts and at the same time.

10 And, as I said before, the
11 juveniles are actually taken and placed in
12 trucks and trucked around the Delta and
13 released into pens, in floating pens. Well,
14 what does this simplification do? One thing,
15 it produces this very high correlation in
16 survival among hatcheries. But this also
17 means that there is going to be a high
18 variation in survival as the environment
19 either lines up or fails to line up -- in the
20 case of the 2004 and '05 brood years to line
21 up with the hatchery operations.

22 Another issue is domestication

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1 selection for behavioral deficiencies in
2 hatcheries. For example, the fry are fed
3 pelletized food. They don't know how to --
4 their foraging behavior is virtually
5 nonexistent. They don't know how to avoid
6 predators. So that -- and this is part of the
7 domestication selection problem.

8 Another big problem is all-site
9 releases, this issue of trucking. When you
10 truck the fish around the Delta they're not
11 able to imprint on their native streams or
12 hatcheries. So they don't know where to
13 return. They come back and they stray all
14 over the place. And this tends to homogenize
15 them genetically. And when they're
16 homogenized genetically this tends to not give
17 them an opportunity to become locally adapted
18 to the place they originally were spawned.
19 And so this reduces this life history
20 diversity within the run.

21 Another issue is habitat
22 degradation, which also reduces life history

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1 diversity both within the runs and among the
2 runs. Dams are an obvious one. I think one
3 of these pictures is of Shasta Dam, as I said
4 a minute ago. The winter run used to spawn
5 above Shasta Dam. Now the only place the
6 winter runs spawns is in the tailrace below
7 the dam.

8 Also the spring run, which is
9 historically the largest run in the system,
10 used to spawn above the rim dams. Now all of
11 the streams, virtually all of the streams that
12 drain the Western slope of the Sierras, have
13 these dams which have no fish passage around
14 them.

15 The Delta. The Delta was originally
16 a 1500-square-kilometer tulle marsh that had a
17 good habitat for rearing. Now the Delta is a
18 series of ditches, with big ditches with
19 armoring along the edges, dikes, and
20 what-have-you, so that the all channel habitat
21 for rearing is no longer accessible by the
22 fish and doesn't exist, for the most part.

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1 All of these things have tended to
2 reduce life history diversity. For example,
3 among runs, of course, the spring run can't
4 get up to its natural spawning habitat, the
5 original spawning habitat, and the winter run
6 can't either.

7 And then within the fall run, --
8 when you reduce the amount of habitat that's
9 available, you reduce the opportunity for
10 local adaptation and having life history
11 variation.

12 So this sort of -- this was a
13 contrast, just to show you what is desirable.

14 This is what you'd like to have. This is
15 just some results from Bristol Bay sockeye
16 fishery in Alaska. And these show, you know,
17 the abundance trends in these different
18 populations through time.

19 And the point is just that you see
20 that they have retained the diverse life
21 histories among these different populations.
22 The dynamics in these populations are not

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1 correlated. They go up -- there's a lot of
2 variation when they're not going all up and
3 down at the same time.

4 And so that's the point I just
5 made, non-synchronous shifts in population
6 abundance. So this dampens the overall
7 variation in stock abundance and the harvest
8 that you take from it. This is probably never
9 attainable again in the Central Valley, but
10 this is the desirable condition.

11 So in coming to an end here, this
12 is a conceptual model of what we think
13 happened in the Central Valley with the
14 Sacramento fall run. In the top picture here
15 we have a declining freshwater habitat
16 productivity, due to the habitat loss and
17 degradation. Going down, we have constant
18 hatchery production, at least once they began
19 to do it.

20 And see here declining fitness, due
21 to things like domestication selection in the
22 hatcheries, straying, loss of habitat -- I

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1 mean the habitat degradation. A number of
2 these things don't allow for local adaptation
3 among the populations, and they become less
4 fit. And they're all the same, so fitness is
5 going down.

6 Increasingly variable climate, I
7 mean, this is a prediction of global warming,
8 that it's going to become more unpredictable.

9 So, for argument's sake, we put that in here.

10 So salmon abundance will really be
11 a -- population abundance will be the sum of
12 all these things, or at least it will be the
13 sum of natural and hatchery production, as
14 it's modulated by the decline in fitness and
15 this variation in the ocean environment.

16 And this is the situation we're in
17 now, where the misalignment of conditions was
18 low, but at some time in the future we'll have
19 a good alignment with ocean conditions, and it
20 will be back up. But the long-term trend is
21 downward. I mean we'll have booms and busts,
22 with declines in the booms and worsening

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1 busts.

2 So we make some recommendations, a
3 few, about what could be done to improve the
4 situation. Really the easiest and the lowest-
5 hanging fruit, so to speak, would be hatchery
6 reform. We recommended that we form a hatchery
7 science review panel to review things like
8 rootstock selection, production levels,
9 rootstock and egg transfer, what the rearing
10 is like in the hatchery, their release
11 practices. No longer release them all at the
12 same time, spread it out. This is the easiest
13 thing that could be done, I think.

14 Another suggestion we had was to
15 try to manage natural populations to increase
16 diversity. I mean, actually if the Management
17 Council could establish escapement goals for
18 these natural populations. And the way we do
19 it now is pretty much in aggregate.

20 The third recommendation was, of
21 course, habitat restoration. That's another
22 obvious one. Especially trying to restore the

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1 ecological function of the Delta, but there is
2 a limited amount you can do there. It's been
3 pretty well messed up, but there are some
4 things that you can to improve things.

5 And our last recommendation was if
6 there's never been a resource management
7 problem that cried out for a more holistic
8 ecosystem kind of approach, this is it.
9 There's a half a dozen different Federal and
10 state agencies that have regulatory
11 responsibility for the different habitats that
12 these fish live in. And, you know, we're all
13 going our separate ways, pretty much.

14 So an ecosystem-based approach is
15 pretty clearly called for to try to manage
16 this problem or solve the problem and
17 ecological risk assessment along with that.

18 And I think that's it.

19 CHAIRMAN BILLY: Okay. Thank you.

20 Bob?

21 MR. FLETCHER: Church, good
22 presentation.

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1 DR. GRIMES: Thank you.

2 MR. FLETCHER: There was a
3 correlation between the amount of freshwater
4 outflow through the Delta and striped bass
5 production. Is there a similar correlation
6 that anyone has been able to see between
7 freshwater outflow and salmon abundance?

8 And the reason I bring it up is
9 they're now beginning to look more and more at
10 desalination as a more realistic alternative
11 to all this export of water out of the Delta.

12 If, in fact, in the next few years more of
13 that is allowed to take place in the South and
14 less water is being exported, would that be a
15 positive thing for the salmon? Would that
16 help with that Delta, the function of the
17 Delta?

18 DR. GRIMES: I think that people
19 believe there is a threshold. I mean, there's
20 not necessarily -- obviously if there's not
21 enough water in the system, this is bad for
22 the survival of out-migrating salmon.

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1 And if you increase the amount of
2 freshwater in the system and you reach
3 whatever this sort of threshold level is
4 that's required for the fish to get out of the
5 system, whether or not really high flows help
6 out migration -- out-migrants, it is probably
7 some, but I mean it's not going to be a
8 straight-line relationship.

9 Now so -- but the more water you
10 left in the system from -- if you're using
11 desalination plants for supplying freshwater
12 to the municipal areas outside the Valley,
13 that would be a good thing. But, remember,
14 that most of this water is used by
15 agriculture. I think the number is -- that's
16 stirring around is something like 85 percent
17 of the water that's in it, at least in the
18 water that's pumped in the Federal and the
19 state systems is used Ag. So while we like to
20 blame the Southern Californians for water
21 problems in the Central and Northern
22 California, the truth is that the vast

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1 majority of it is used by Agriculture. And
2 it's not necessarily efficiently used. I mean
3 drip irrigation systems aren't necessarily
4 used. I mean there's no consideration for
5 what kind of crops are grown, the rights --

6 MR. FLETCHER: We need to flood
7 those fields and get rid of that selenium.

8 DR. GRIMES: Yeah.

9 (Laughter.)

10 MR. O'SHEA: Thanks, Mr. Chairman.

11 Now when I was looking at your slides -- I
12 think it's number 20 -- it seems like the
13 fitness reduction seems to be a key driver
14 here. And I was wondering if you had looked
15 at that parameter in, say, Alaskan hatcheries
16 and are they seeing the same phenomenon?

17 And, if they're not, is that
18 because they're in Alaska or is that because
19 maybe they have different techniques than are
20 being used down here?

21 DR. GRIMES: I don't really know
22 what the situation is in Alaskan hatcheries,

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1 but I think Bob and other people know. There
2 have been real attempts to try to modify the
3 behavior of hatchery managers, introduce the
4 so-called nature's system for rearing the
5 hatchery fish where you did it in a more
6 natural way and you exposed them to conditions
7 that would allow them to learn to avoid
8 predators and to forage for themselves in the
9 wild.

10 And I think that that's sort of --
11 well, you can probably speak to it better than
12 I can.

13 DR. DICKHOFF: Yeah, a key to that
14 I think was the data that said condition
15 factors and fitness. There's probably early
16 ocean growth that's critical to their survival
17 in the next year. We're looking more at
18 growth hormone levels at those -- usually the
19 first summer in seawater and using those to
20 predict health survival for that group. And
21 so that's being started in Alaska now. So
22 that's being extended --

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1 DR. GRIMES: But I think that there
2 definitely are hatchery management practices
3 that could be changed that would probably
4 improve the situation. And I don't -- no, I
5 don't want -- I mean one of -- probably the
6 worst thing or the -- it depends upon your
7 perspective, but this trucking, this all-site
8 release is -- this directly creates the
9 homogeneity of the population and the
10 population by straying from -- not returning
11 to their natal, either hatcheries or natural
12 spawning sites. And I don't think Alaskans do
13 any of that, that I know of.

14 DR. DICKOFF: No.

15 MR. O'SHEA: Thank you, Mr.
16 Chairman.

17 CHAIRMAN BILLY: Okay.

18 DR. HOLLIDAY: Church, one of the
19 reasons I asked you to come and talk to the
20 group is Eric's been leading this Fishery
21 Disaster Working Group. So this seemed to be
22 a real good case of, you know, a fishery

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1 resource disaster causing a commercial fishery
2 failure. And Fisheries Services published a
3 proposed rule on this.

4 And so one of the questions, in
5 fact, I think he's going to be asked to look
6 at is this sort of the public policy
7 implication of what the research is showing.
8 And that if you have these cyclical disasters
9 -- you know, conditions that are creating
10 these fishery disasters, is there a fishery
11 disaster assistance or fishery subsidy policy,
12 something analogous to what we do in
13 agriculture for those lean years to help
14 intervening -- to promote the fishery health
15 with the help of the fishermen in the cycles
16 that you call one where there's these
17 correlations?

18 And so I think there's a question
19 in front of us that we pose to the working
20 group as, you know, under what conditions,
21 under what criteria are these anthropogenic
22 effects affecting the long-term viability of

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1 the fisheries? And that's something that I
2 think MAFAC should consider as they look at
3 the policy of the fishery disaster rule.

4 DR. GRIMES: Because there was one
5 declared in 2007 when the thing was closed and
6 Congress appropriated \$170 million, I think,
7 of which I think somewhere around \$100 million
8 was -- actually had been spent to compensate
9 the industry for the economic hardships
10 associated with collapse of the fisheries.

11 And then a few years before it was
12 done in the Klamath River, as well. That was
13 \$60 million to compensate for the losses in
14 the Klamath system. And actually if you trace
15 that back a few years, there was a -- water
16 was released to the system in -- I mean, was
17 used for agriculture. Adults died. Returning
18 adults didn't survive. It was a poor
19 spawning, so -- and it was, you know, three
20 years later that they had a fishery just --
21 the fishery was collapsing. And the disaster
22 was declared.

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1 And I remember the year after --
2 the year after the water was -- the floodgate
3 was sort of opened for the farmers to use all
4 the water they wanted. And they made a big
5 thing out of not allowing that to happen. And
6 then there was -- so there was a disaster
7 declared for the farmers.

8 So you're sort of in this inner
9 cycle, and none of which makes you feel very
10 good as a taxpayer. I mean, you -- but that's
11 -- that's not my business, I guess, anyway.
12 It is the business of the Agency.

13 MR. SPEAKER: All our business.

14 DR. GRIMES: One kind of failure
15 followed by another.

16 CHAIRMAN BILLY: Randy Fisher.

17 MR. FISHER: That's okay. I'm so
18 excited about listening to Sam's presentation,
19 and I'll just pass.

20 MR. CATES: On your list of
21 recommendations you had four topics. Two of
22 them -- one was aquaculture or hatcheries as a

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1 tool. The other was management of wild
2 stocks. And then you got into ecosystem
3 management and - off the top of my head. In
4 Hawaii we call that the Oahu Baraha System.
5 But I really don't see how my definition of
6 that, it doesn't make sense any more, because
7 you don't have control over the agricultural
8 water, like you just explained.

9 It's a big buzz word that we all
10 used, ecosystem-based management, but it
11 doesn't really work, because we don't have
12 control of all the other factors. So do you -
13 - my question then would be: Do you see a day
14 that we are getting -- where this does come to
15 realization, we have to have more hatcheries
16 to keep a fishery? Are we going in that
17 direction or --

18 DR. GRIMES: Well, we show a couple
19 things.

20 MR. CATES: But that -- yet none of
21 your four on your list to me don't seem
22 realistic.

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1 DR. GRIMES: What I meant by
2 ecosystem-based management or a more holistic
3 approach to management was, in fact, addressed
4 in this issue of divided responsibility for
5 different habitats in which the fish occur is
6 exactly the problem. And it needs to be dealt
7 with in a more holistic fashion. Whether or
8 not that will happen is, you know, who knows?
9 More hatchery fish, increased hatchery
10 production. That's not a solution, no. I
11 don't -- I think that's not the solution at
12 all.

13 In fact, given the same level of
14 hatchery production, which has been pretty
15 much what it has for a very long time, under
16 good ocean conditions it supports a great
17 fishery in California. And we had -- it's the
18 largest salmon fishery on the West Coast of
19 the United States. So not --

20 MR. CATES: So based on your
21 numbers, a large percentage of them are
22 hatchery fish.

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1 DR. GRIMES: That's right.

2 MR. CATES: So, as a society, if we
3 wanted to increase production, then that would
4 be where you would target the increased
5 hatchery production; am I correct?

6 DR. GRIMES: No. I think if you
7 increase hatchery production you'd get a very
8 marginal increase in total production. That's
9 what I just said. The hatchery production is
10 sufficient to support a -- support very
11 vibrant fisheries in California during good
12 ocean condition years.

13 I mean, there is some limit on the
14 carrying capacity of the ocean. You can't --
15 you couldn't -- I don't know what that limit
16 would be, but if you continued to increase
17 hatchery production, you won't necessarily get
18 more returns to the river or fish in the
19 ocean.

20 CHAIRMAN BILLY: I think we're
21 going to move on.

22 Thank you very much for your

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1 presentation. And there's opportunity to talk
2 some more, I assume, when Eric has his working
3 group meeting.

4 The next three presentations deal
5 with updates on NOAA budget, rulemaking, and
6 sort of a new legislative agenda. We're going
7 to change the sequence a little bit.

8 I'll first ask Alan to talk about
9 the upcoming rules and policy decisions,
10 actions.

11 MR. RISENHOOVER: Alright. Thank
12 you, Tom.

13 I hope everybody can hear me down
14 here in the corner. If you can't just yell,
15 and I'll try and project a little bit more.

16 But what I thought I'd do today is
17 just kind of run through the standard Magnuson
18 Act update I've given you, I think, at the
19 last two meetings and try and punch it up here
20 a little bit, throw in a few curves so it's
21 not as boring as some of the last ones.

22 But I do think, because the two

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1 previous ones, you know, there were some
2 things that weren't really moving. You know,
3 it's kind of the July thing. The July
4 presentation and the November presentation
5 kind of were the same. We could tell you a
6 little bit more, you know, comment periods had
7 closed and what some of those comment periods
8 are.

9 But between that November meeting and
10 now we've had four or five major things
11 happen. So I'll spend a little bit of time on
12 those and then also project a little bit into
13 the future about what's coming up.

14 So the to-do list, as we've gone
15 through before, we broke it into three parts.
16 Priority one were the ones with the due date
17 specified. The other two were lower
18 priorities or just authorized us to do things.

19 On those priority one topics, those
20 things that we had due dates on, I think last
21 time we looked at this we were in the 50- to
22 60-percent range. So we're above that now.

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1 We're about three-quarters of the way done
2 with those.

3 And, again, some of those things
4 that we have gotten done were major actions.
5 So we'll talk a little bit more about those.

6 So, of course, everybody wants to
7 know, well, what aren't you doing? So that's
8 the four tasks that are delayed. And those
9 are, I think, pretty much still the four tasks
10 that have been delayed before.

11 The ecosystem research study is
12 cranking along.

13 The NEPA Environmental Review
14 Process, I'll talk a little bit more about
15 that.

16 EFP rulemaking and a -- hmm, the
17 salmon recovery plan may have actually come
18 out. So I need to check on that.

19 And then the three that are on
20 track, two of those are with the Weather
21 Service, so I'm not going to report on those.

22 But one is our final IUU

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1 Regulations that I'll talk about a little bit
2 later.

3 And then there are -- the one task
4 that we don't have any milestones on, we don't
5 know what we're doing, is this naming an
6 international fisheries appointment that was
7 authorized under the Magnuson Act -- or
8 actually required under the Magnuson Act for
9 January of 2009. There's been no action on
10 that. And your guess is as good as mine as
11 what's going to happen with that.

12 On the priority two and three tasks
13 we're creeping up there a little bit more,
14 getting a few more knocked off. We've got a
15 number that are still in progress, things I'll
16 talk about a little bit later, like the LAP
17 guidelines, limited access privilege
18 guidelines, ocean acidification studies still
19 ongoing, and a few others.

20 The bottom one there attracts some
21 attention, we'll -- you know, you were asked
22 to do something, but you don't have any

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1 funding for it. What is that? Those are
2 three studies. Some impacts of turtles --
3 turtle-excluded devices on the shrimping
4 industry, a herring study, and a restoration
5 study. So those were authorized with funding
6 in the Act. We haven't gotten that funding.
7 So we're probably not going to do them.

8 So just show you all we can do a
9 pie chart outside the Budget Office. We're up
10 around 63 percent of everything done.

11 So let's go into kind of some of
12 those major things I mentioned that have been
13 done. The ACL NEPA Guidance. I'll give you
14 an update on MRIP. Limited access,
15 international fisheries, peer review. I'm
16 going to add one to this that wasn't actually
17 required by the Magnuson Act, but I think we
18 need to talk a little bit about it in an
19 introduction, I guess, to Eric's
20 subcommittee, as we do have that proposed rule
21 out on disaster programs. So that's one thing
22 I'll mention at the end.

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1 So annual catch limits, just to
2 remind you, was a new requirement. Annual
3 catch limits were to be in place to end
4 overfishing. And we had to have
5 accountability measures. So in looking at
6 that, we modified National Standard 1. Our
7 goal was to be flexible yet strong to meet the
8 requirements of the Act.

9 So in doing the rule we took into
10 account the items that are listed there,
11 obviously, the biology and the ecology parts
12 of it, what science do we have. Do we have
13 overlaps in management jurisdiction either
14 with states or with international
15 organizations? And how did the resource users
16 interact with it? So where we are with that,
17 just to recap, again we had a proposed rule
18 out over a -- oh, about a year ago. We did
19 get 158,000 comments on that rule. It took
20 some time to go through those. Thanks to
21 everybody for the cards and letters. So this
22 is one big thing. We did get the rule in

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1 place. We published it January 16, 2009 right
2 before another big date, which was January
3 21st, 2- -- January 20th, 2009.

4 So we did get for a while hung up
5 in that: Is the new administration going to
6 review the old administration's rules? So
7 there were briefing conversations. Sam
8 probably knows the backroom conversations on
9 that more than I do.

10 But the new administration decided
11 not to ask us to put that rule out for
12 additional public comment. So it did go final
13 in February, and we're working under it now.

14 So on the implementation side of
15 things, those of you are familiar with the
16 rule know this. But we need to have those
17 annual catch limits in place for all stock
18 subject to overfishing, by 2010. So that's
19 what the councils and the Agency are working
20 on right now, is getting that provision in
21 place. There are 41 stocks around the country
22 subject to overfishing.

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1 So we're going to be looking at
2 those stocks, tracking them, seeing how the
3 councils are doing. And the Secretary has a
4 couple on implementing annual catch limits for
5 the 2010 fishing year. So there are 41 that
6 are our target.

7 The other part of that is the Act
8 included a couple exemptions or exceptions
9 from 2010 requirement for stock subject to
10 overfishing. The first of that was for stocks
11 with a life-cycle less than one year or about
12 one year. Pink shrimp in the Gulf of Mexico
13 was in that category. But we've just got some
14 new signs that say maybe the stock assessment
15 wasn't right on that. So pink shrimp isn't
16 subject to overfishing, so it won't have to be
17 done.

18 The other one are stocks managed
19 under an international agreement. We and the
20 councils are going through those stocks now to
21 determine is there a regional fishery
22 management organization managing that stock?

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1 If so, that would be exempt from the 2010
2 requirement, as well.

3 So that's the ACL rule. Do you
4 have comments or I mean questions, you know,
5 stop me as I go, or we can talk a little bit
6 at the end. But that was our first major
7 accomplishment, just in the last three or four
8 months, was getting that rule out.

9 Secondly, the Act required that we,
10 in consultation with the councils revise and
11 update our procedures relative to NEPA. We
12 put out a proposed rule on that. And what we
13 were supposed to do is outlined here. It was
14 to conform the timelines, better blend NEPA
15 and Magnuson Act into a single process.

16 For those of you familiar with Magnuson
17 and NEPA, they don't quite mesh in their
18 timelines. So our work was to try and mesh
19 those things. We did issue a proposed rule,
20 got the standard 150,000 comments on it. This
21 is one we never went final with the proposed
22 rule -- with the final rule on no.

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1 In December the Bush administration
2 decided that they didn't want to put anything
3 out before the next administration. And what
4 we did in December is we withdrew that rule
5 from OMB review. So the proposed rule is
6 still out there. We've got the comments on
7 it. And we're trying to decide, should we go
8 forward with the final rule? That decision
9 hasn't been made by the new administration
10 yet. So we're in a bit of a holding pattern
11 on the new NEPA provisions. One thing I'll
12 add, though, is there is a NOAA Administrative
13 Order on NEPA, which are internal processes,
14 what we followed to implement NEPA.

15 And we are with Paul's group, PPI,
16 looking at possibly revising that. So we've
17 got a work group revising that or looking at
18 revising that. So that may be some action.
19 But still meeting this Magnuson Act
20 requirement, we haven't met it yet. And I
21 don't know that we could meet through the NAO
22 requirement or not.

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1 MRIP is another one of those things
2 that is a big thing, since we spoke last.
3 Again, the Act required us to improve the
4 quality and the accuracy of it, had to take
5 into account the 2006 National Research
6 Council's report. And we were to establish a
7 regionally-based registry for recreational
8 fishermen around the country.

9 So we have a proposed -- had a
10 proposed rule out on that last year. We took
11 comments through August. I don't remember if
12 we got the requisite 150,000 comments on that
13 one or not. But I'm sure we did get quite a
14 few comments. We do have a final rule that
15 went into place in December. And it was
16 effective in January as well. The new
17 administration didn't review that or send it
18 out for additional comment.

19 The one key thing is, while we've
20 established the new program, the registry
21 itself won't go into place until 2010. So
22 there was a year delay on that.

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1 There's an implementation plan
2 that's been put together and finalized. And
3 that's up on the website. So the MRIP program
4 is up and running now, but the registration
5 will start in 2010.

6 Limited access privilege programs.

7 As I've talked here before, our goal was to
8 double such programs by 2011. We're currently
9 at 12; we should make the 16 by 2011. In
10 addition to a report that Mark Holliday was
11 co-author on, on the design and use of those,
12 we've been considering whether we need to do
13 formal regulatory guidance on the new LAP
14 provisions in the Magnuson Act and have had a
15 working group working on that for a couple
16 years.

17 And now that we've gotten the
18 annual catch limit guidelines done, we've
19 turned back to that. And that working group
20 is looking again at what provisions in the
21 Magnuson Act do we need to have formal
22 guidance on.

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1 We've got a process internally in
2 place that will take us into the summer where
3 we'll decide whether we need to have a
4 proposed rule. So expect something
5 mid-to-late summer on that.

6 The one issue here on the LAP
7 Program is the new administration is keen on
8 implementing what they've been terming "catch-
9 share programs." So we've fallen back a
10 little bit internally to try and figure out
11 what are catch-shares.

12 There is no regulatory definition
13 of a catch-share program, or statutory
14 definition. So we're working to define what a
15 catch-share program is and then figure out how
16 we circle all those in a corral, and what do
17 we do with them, and what our new goal will
18 be?

19 So we're working with the new
20 administration folks. Dr. Lubchenco is very
21 interested in catch-share programs. And our
22 next action here may be to develop a goal

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1 similar to double the number of LAPs. But
2 what's our goal for catch-share programs?
3 Should it be an economically-based goal?
4 Should it be just a number-of-programs goal?
5 Should the goal be to end overfishing using
6 catch shares? What's our goal associated with
7 catch shares? So we'll be working on that in
8 the near future.

9 A couple other rulemakings that
10 we've been working on: the Experimental
11 Fishing Permit, the EFP Program. Again, the
12 Act required us to streamline that program.

13 We've issued a proposed rule on
14 that. We've taken comments, and we're getting
15 close to getting the final rule out on that.
16 Some of the issues associated with it were
17 simply that scientific research under the Act
18 doesn't require an EFP.

19 So we're looking in this rule to
20 clarify what scientific research, to make it
21 clear to applicants when they needs and when
22 they don't.

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1 Another distinction we've been
2 trying to make is the difference between
3 conservation engineering and gear testing.
4 Again, I think if we clarify the definition of
5 "scientific research," that will help us with
6 conservation engineering occurs as a research
7 activity. Gear testing occurs as a fishing
8 activity.

9 A couple other items there were
10 timely issuance of the EFP. The Act required
11 us to streamline. In looking at that we may
12 not be able to issue those permits any
13 quicker, again, because of ESA, MMPA, and NEPA
14 requirements. So we're trying to outline that
15 a little better in that EFP rule.

16 A second rule here is the IFP
17 Referenda Guidelines. We have final --
18 published final rules on that. The Act
19 requires that the Northeast and the Gulf of
20 Mexico LAP programs need to have a referendum
21 conducted with the fishermen before those can
22 go forward. And we have final guidance out on

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1 those now.

2 Another major thing that's occurred
3 since our last meeting is related to
4 international provisions. We've issued a
5 proposed rule for developing procedures to
6 address IUU fishing and bycatch. That was
7 published this January. Comments are closing
8 the 14th, which is probably sometime in the
9 next week, because I'm not sure what today is.

10 What is today?

11 MS. SPEAKER: The 11th -- the 12th.

12 MR. RISENHOOVER: Thursday. Thank
13 you. That was helpful. Well, you know,
14 Thursday didn't help. Okay.

15 So if you've got comments on that,
16 get it in. I don't know that we're getting
17 that 150,000 comments. There are also a
18 number of public hearings that were held on
19 that. But that's how we're going to -- the
20 procedures for certification under the Act.

21 Another big thing that happened was
22 the publication of this Biannual Report to

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1 Congress, which did identify six countries as
2 having some IUU problems. So we're working
3 through the diplomatic channels with those six
4 countries and the Regional Fishery Management
5 Organization to try to take care of the
6 problems that those Councils -- those
7 countries were identified for.

8 Now identification is the first
9 step in the process. The second one would be
10 certification of those countries as having IUU
11 problems which can lead to some other problems
12 from the Magnuson Act in trade restrictions.
13 So right now they've just been identified.
14 Certification will happen after we get this
15 final rule completed. So that's down the line
16 a little bit.

17 Real quick on deep-sea corals. The
18 Act has some new provisions in there on
19 protecting deep-sea coral communities. We
20 have a Draft Strategic Plan out for comment
21 until January 17th. So the folks in the
22 Habitat Office are looking at those comments

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1 and trying to finalize that, that strategic
2 plan.

3 Another rulemaking underway, or
4 about to go underway, or get underway, I
5 guess, is revisions to the National Standard 2
6 Guideline. That's the best available science
7 guidelines. We had an ANPR on that. We took
8 comments. And we have a working group going
9 through those comments. Heidi is on that. I
10 saw her working on it earlier today. So I
11 think progress is being made. And a proposed
12 rule on that will probably be out fairly soon.

13 The background to that is there was a
14 National Research Council Study that
15 recommended some changes that we've
16 implemented, but we haven't really formalized
17 those changes in regulations.

18 The 2007 Magnuson Act
19 reauthorization had some more provisions in it
20 regarding peer review and what the SSTs are
21 responsible for, and so they're going forward.

22 Some of the issues there would be,

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1 you know, what's the standard for best
2 scientific information available? Is that
3 something we want in regulations? Who's
4 responsible for the SAFE reports, us or the
5 Councils? And how do you integrate what the
6 SSCs, the Statistical Science and Statistical
7 Committee, to the Council put in those SAFE
8 reports or is an entirely NMFS?

9 And then also there were some new
10 conflict-of-interest standards in the Act. Is
11 that something we want to address under this
12 proposed rulemaking? So look for that in the
13 summer as well. And I haven't been to Mexico.

14 But the last thing is on the
15 disaster rule. I didn't put a slide in it,
16 but I thought I'd mention it, as well. Our
17 intent there is to clarify some of the terms
18 in there that haven't been defined in the past
19 in a regulatory action, such as commercial
20 fishery failure, fishery resource disasters.
21 And some of the criteria that we talked about
22 a little bit with Church here, about how do

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1 you decide when those have occurred? Is it
2 something that's predictable? Is it something
3 that wasn't predictable? And how do we handle
4 these fairly and equitably around the country?

5 So we've proposed in there a three-
6 prong test that there needs to be -- to get
7 the disaster declaration, which makes you
8 eligible for funding, although Congress seems
9 to fund folks whether we have a disaster
10 declaration or not in many cases, there needs
11 to be a fisheries resource disaster. It's got
12 to be from natural or undetermined causes. It
13 cannot be from overfishing. And it has to
14 result in a commercial fishery failure. That
15 is, revenues have to decline because of it.
16 The rule proposed an 80-percent threshold for
17 the kind of the sure thing. That is, if your
18 revenues go down by 80 percent, compared to
19 the last five years, you get a fast track.
20 Anywhere between 35 and 79 percent is more of
21 a slow track. We'll look at it, look for
22 additional information and see if a disaster

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1 occurred. And then finally, anything under a
2 35-percent reduction in revenue doesn't
3 qualify for a disaster.

4 So that's a quick overview of those
5 and Magnuson Act stuff. If you want more
6 information, then I always point folks to the
7 website where we try to keep a table and all
8 the associated information as we go forward.

9 CHAIRMAN BILLY: We're running a
10 little behind schedule, but maybe a couple
11 quick questions or comments.

12 Yes, Heather?

13 MS. McCARTHY: Thank you, Mr.
14 Chairman.

15 Alan, you've talked about the LAP
16 guidelines that exist now. And you're trying
17 to determine whether you need to go further
18 with that. And when did you say you were
19 going to decide that?

20 MR. RISENHOOVER: Well, just --
21 again, just to separate the two documents out
22 there, the technical memo that's out there

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1 provides information how one would do a LAP.
2 The guidelines we're thinking about are, are
3 there regulatory definitions or clarifications
4 we need to make that the Agency would either
5 give, you know, kind of the thumbs-up, or a
6 thumbs-down on the rule, if they did or didn't
7 do anything. But the working group's working
8 now, and I think we should have something in
9 the next month to the leadership folks on what
10 would be in that proposed rule, if there is a
11 proposed rule, kind of mid-to-late summer.

12 MS. McCARTHY: And who's in the
13 working group?

14 MR. RISENHOOVER: We've got folks
15 from Headquarters obviously and a few regional
16 folks are working with this to kind of draft
17 out a series of papers on what we think there
18 may need to be in those guidelines. And then
19 we've shared those with the regional offices
20 to give us their feedback. So it's an
21 internal work group right now.

22 MS. McCARTHY: Okay. So if I may?

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1 Is there anything that's public about any of
2 those internal discussions?

3 MR. RISENHOOVER: Not yet, --

4 MS. McCARTHY: Not yet.

5 MR. RISENHOOVER: -- because we
6 haven't made a decision on what we're going to
7 go forward with. You can look at all the
8 comments we got on the LAP ANPR that's online.

9 MS. McCARTHY: Okay. So until you
10 decide that, and there may or may not be
11 something further, the highest authority for
12 the National Marine Fisheries Service is those
13 documents that are already prepared?

14 MR. RISENHOOVER: But -- yeah, the
15 highest authority would be, you know, the
16 actual provisions in the Act.

17 MS. McCARTHY: Right.

18 MR. RISENHOOVER: But then the
19 technical memorandum talks about how one might
20 implement those, but it's not -- we don't use
21 -- the technical memorandum is kind of a
22 decision document or a decision framework like

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1 we would with formal regulations.

2 MS. McCARTHY: May I ask one more
3 question? If there's any question about
4 anything having to do with LAPs, where does
5 the legal staff, for example, or the regional
6 staff go to for that -- to that technical
7 document that's already in existence?

8 MR. RISENHOOVER: They've been
9 going back to the statute. And our GC
10 attorneys have been talking amongst themselves
11 trying to get some input to us on what they
12 see there needs to be more guidance on,
13 because we don't want kind of differing
14 opinions around the country. And, frankly,
15 we're a little behind on getting these out, if
16 were going to get them out.

17 MR. BILLY: Erika.

18 MS. FELLER: Thank you. And in
19 terms of doubling the number of programs by
20 2011 to 16, how many of those are currently
21 underway and how -- maybe I'll just ask that
22 question.

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1 MR. RISENHOOVER: How far along?
2 They're all underway. We've got the 12 in
3 place now and the councils are at different
4 stages, formal stages, of about five. So
5 we're probably going to end up with about 17.
6 I'm just not sure if all 17 will be done by
7 2011.

8 So actually on this website we have
9 something that talks about the ones that are
10 underway as well, so you can look and see
11 which of the council ones. So for the West
12 Coast, the TIQ Program is one of those five I
13 mentioned that are underway but not
14 implemented. We don't count them as being
15 complete until they're implemented, and right
16 now that's one of the ones we think will come
17 online in 2011.

18 MS. FELLER: Do you -- I'm sorry,
19 one more -- do you anticipate that any of the
20 councils will initiate a LAP process for any
21 fisheries beyond those that are currently
22 underway?

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1 MR. RISENHOOVER: Yeah. Actually
2 we've put together a list where we've talked
3 to the councils and we've talked to our
4 regional folks about 'As far as Catch Shares,
5 what do you think the future holds.' And I
6 think the last number I saw was about 26,
7 total. Now, again, that's just somebody from
8 the council saying, yeah, they think they want
9 to work on this. The regional director's
10 telling us, yeah, this is one that may
11 somewhere along the way become one.

12 So the ones we can count on are
13 those 12 that are implemented and then four or
14 five more that are in different stages of
15 formal work by the councils. Then there's
16 probably four or five more that they're
17 starting to work on. So we're only looking at
18 those 17 as the sure thing, but there's many
19 more kind of in the drawing board for those.

20 And on the doubling the number, you
21 know it seems kind of funny going from 8 to
22 16. You know what's the 'So what' in that.

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1 Well, the 'So what' we found is that if you
2 look at the value of fisheries harvested under
3 Catch Share Programs, about a fifth of the
4 current ex-vessel value is harvested under
5 Catch Share Programs.

6 MR. BILLY: Okay. I've got Martin
7 and then Dorothy and then we'll move on.

8 MR. MARTIN FISHER: It's nice to
9 see you again, Alan. Thanks for the humor.

10 MR. RISENHOOVER: I try.

11 MR. MARTIN FISHER: I've got about
12 15 questions and a hundred thousand comments.

13 MR. SIMPSON: A hundred and fifty-
14 three thousand.

15 MR. RISENHOOVER: And people wonder
16 why it takes us time to go through those.

17 MR. BILLY: And you got a chairman
18 that's starting to wry about getting behind.

19 MR. MARTIN FISHER: Okay.

20 MR. RISENHOOVER: So I'll take one
21 question now, Martin. Save the 150,000 for
22 later.

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1 MR. MARTIN FISHER: Those were the
2 comments.

3 I'm going to go in a different
4 direction than I thought I was going to go.
5 In terms of stock assessments and the Science
6 Center, especially in the Southwest Region, we
7 seem to be having a problem with consistency.
8 We're running hot and cold -- either red
9 grouper's never been overfished, but then two
10 years later and a reassessment, it is
11 overfished. Now with pink shrimp it was and
12 now it's not.

13 Has there been any discussion of
14 privatizing the scientific department of NOAA
15 so that we get sort of this idea of being in
16 this incestuous relationship between the RAs
17 and the Regional Science Centers and the kind
18 of information that goes back and forth? And
19 I was thinking that if we could privatize the
20 science effort, it would bring a lot more
21 confidence to the public sector and it would
22 also create a different kind of response time.

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1 MR. RISENHOOVER: Right. What
2 there is, is the Science Center's report,
3 there are two lines in the regions. So the
4 regions report to Sam, the Science Centers
5 report to Steve Murawski. So -- no, I'm not
6 going to say it that way. So some of those
7 relationships don't occur like some folks may
8 think at the regional, you know, smaller or
9 regional level.

10 As far as privatizing the Science
11 Centers, I haven't heard of anything along
12 those lines, but what they have done is with
13 the peer-review process tried to bring in
14 external experts to review the science so it's
15 not just internal NMFS coming up with the --

16 MR. MARTIN FISHER: No, I've been
17 to see ours and I've watched that happen. But
18 one of the problems that we have is like, for
19 instance in the LAPP program with grouper, or
20 what's going to be called the IFQ, initial
21 allocation is going to be based on what are
22 mandatory but what are self-serving log book

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1 reports that the fishermen fill out. No
2 checks and balances. It's rife with errors.
3 Not to say that it's anybody's fault, but in
4 digital scanning even a speck of dust creates
5 zeroes where zeroes don't belong. And there
6 are fishermen that are going to be allocated
7 100,000 pounds of fish they've never even
8 caught. And we're not just talking about one
9 or two cases. We're talking about several.

10 And it just concerns me that some
11 of our best available data and our science
12 centers are dealing with antiquated data-
13 collection systems that are really affecting
14 the future of our fisheries and the health of
15 our stocks.

16 MR. RISENHOOVER: Well, and just to
17 kind of prelude Sam's budget presentation
18 here, we do have requests for improving our
19 stock assessments. We have requests for
20 improving our monitoring. But, again, I don't
21 know the specifics of the grouper IFQ and what
22 some of the problems are, but I'm sure it's a

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1 very involved allocation process there,
2 hopefully with some checks and balances in it
3 and appeals.

4 MR. MARTIN FISHER: And one more
5 thing. Has there been any consideration for
6 fisheries that are going to be managed under
7 ACLs that don't have the budget for annual
8 stock assessments? For instance, many of the
9 LAPP programs up in the northwest, in Alaska
10 do very well with ACLs because they have
11 enough money for annual stock assessments.
12 And in our region we're on a five-year cycle,
13 so ACLs don't really make a lot of sense.

14 MR. RISENHOOVER: Right. Well, the
15 law is clear that you have to have an annual
16 catch limit in place. The science side of
17 that, yes, it would be nice to have an annual
18 stock assessment to go with that annual catch
19 limit. If you don't have those annual stock
20 assessments, and we are tracking these, you
21 know if we have an ACL in place in 2010 when
22 is the next stock assessment in the cycle.

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1 But what we would like to have is they have
2 designed these ACLs or some indicators in
3 there, and that's usually: Did you stay below
4 your annual catch limit. That sometimes takes
5 a year or two to get the data, but that will
6 be the first indication. If you're below your
7 ACL, that's a good indication that you're
8 doing the right thing. Then the stock
9 assessment will prove that you ended
10 overfishing later. But data is a big issue on
11 these as well.

12 MR. MARTIN FISHER: Thanks.

13 MR. CATES: Okay. Dorothy.

14 MS. LOWMAN: So back to the LAPP.

15 So, Alan, we have your working group and
16 you're looking at things that might need some
17 additional guidance and could be part of a
18 proposed rule. And that we might look at the
19 end of summer for a potential proposed rule
20 coming out.

21 Would at that time be here are the
22 issues and here's the guidance or would there

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1 also be opportunities if you were commenting
2 to say here are some issues that we should
3 have some guidance, or what is it, what level
4 is that?

5 MR. RISENHOOVER: Right. We did
6 already ask the public for comments on the
7 LAPP provisions.

8 MS. LOWMAN: Right.

9 MR. RISENHOOVER: So we have, that
10 was about 2700 comments resolved, --

11 MS. LOWMAN: Right.

12 MR. RISENHOOVER: -- so we do have
13 that input into this working group as well as
14 the relationships with our regional folks
15 saying, you know: Now that we've had a year
16 or so to look at those provisions, where do
17 you see the problems being.

18 So we're taking those early public
19 comments, we're taking the experience of the
20 work group, we'll come out with a proposed
21 rule that says: Here are the issues, here is
22 our proposed solutions. But, again, I don't

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1 think that would preclude from somebody from
2 saying, 'There's one issue you completely
3 missed.' Hopefully we captured all the issues
4 in that early round of comments.

5 MS. LOWMAN: Yeah. I mean I think
6 that in the last couple years we've had a lot
7 of on-the-grounds opportunities for these
8 issues to really arise. And I think in
9 particularly and I guess I'm also hearing that
10 you are touching base with the General Council
11 folks in doing this, because --

12 MR. RISENHOOVER: The work group
13 has a General Council member on it.

14 MS. LOWMAN: Okay. Good.

15 MR. BILLY: Okay. Alan, are you
16 going to be around for the coffee break and
17 later for people who have other questions?

18 MR. RISENHOOVER: Absolutely.

19 MR. CATES: Okay. Thanks.

20 Sam, the floor is yours. The
21 budget update and the legislative agenda.

22 MR. RAUCH: In five minutes, so

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1 we're going to do good.

2 MR. BILLY: We'll give you ten.

3 MR. RAUCH: Ten, oh, even better.

4 Alright. I'm not a budget person. Gary
5 Reisner was going to give this presentation,
6 but since the 2010 budget came out last
7 Thursday, he has to be back in D.C. to help
8 with that roll out and couldn't be here, so
9 I'm going to try to step in. But if you have
10 detailed questions I won't be able to answer.

11 This presentation's in two parts.
12 One is a brief overview of the NOAA budget as
13 a whole, which I'm going to skim through, and
14 the other one is more detailed about the NMFS
15 budget, which I'll pay more attention to. So
16 I'm going, in the interests of time, skip over
17 some of these slides. This presentation will
18 be up on the website, but since Gary didn't
19 give it to me till last night after close of
20 business, we couldn't make it.

21 Before we talk about the budgets
22 themselves, we got in the Stimulus Package the

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1 America Reinvestment and Recovery Act -- or I
2 forget what they all stand for -- NOAA got 830
3 million total: 230 million for habitat
4 restoration, vessel maintenance and other
5 things; and then 430 million for facilities,
6 ships, satellite develop; and 170 million in
7 climate modeling.

8 Congress approved the spend plan on
9 May 7th. Of that there's 167 million to NMFS
10 for marine and coastal habitat restoration.
11 We've been running a process, we ran a public-
12 application process. Those, we had over \$4
13 billion in requests for that 160 million in
14 terms of funds. We hope to make a decision on
15 that by, I think, June 1st, so that people can
16 get the grants in. But there has been a lot
17 of interest, and there are a lot of good funds
18 in there if we can fund even a portion of
19 that, and that's all we would be able to do.

20 There's also money in there for the
21 Pacific Regional Center in Hawaii and for the
22 Southwest Fisheries Science Center.

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1 For NOAA, the 2010 budget, NOAA's
2 requesting about four and a half billion
3 dollars, an increase of about 2.5 percent over
4 the Enacted 2009. The biggest part of that --
5 so this is the budget trends, which you can
6 see that for NOAA as a whole traditionally
7 Congress has appropriated mostly in earmarks
8 more than NOAA's requested. This year NOAA is
9 requesting more than Congress has ever
10 appropriated. Most of that is coming from a
11 satellite request, which we'll talk about.

12 We break our budget down into two
13 main lines: The Operation Funds, the ORF
14 funds and the Acquisition Funds. And so this
15 just describes the changes in general about
16 where we're asking for the increase.

17 This is the highlights of what Line
18 Office is getting an increase. You'll see
19 that the satellite line is getting the biggest
20 increase from the Enacted, about \$300 million
21 for some new satellites. Fisheries is getting
22 a significant increase. There are also some

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1 reductions in there, which we'll talk about.
2 And then those are the other ones. Oceans and
3 Coast are taking a cut, a hit. And Program
4 Support's taking a hit in order to pay for
5 that. And these are net numbers, so there are
6 pluses and minuses in all of those. All
7 right, that was the NOAA budget.

8 This is the NMFS trend, so you can
9 see that in general we're requesting more.
10 We're going to be requesting a significant
11 increase. The Enacted has been flat. The two
12 highest ones in 2007 and 2009 actually
13 represent Katrina funds and other disaster
14 funds. In 2007 it was Katrina funds. And in
15 2009 it was disaster funds, which actually
16 pumped up our budget more than in general the
17 flat line that you see.

18 These are the accomplishments that
19 we do, which we don't need to talk about that.
20 So the budget is \$879 million for NMFS, which
21 is an increase of \$50 million over the Enacted
22 from '08. This is actually what we got in

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1 '09. So this past month we received our '09
2 budget and we're asking for the '10 budget.

3 So the '09 budget was an increase
4 of six percent, which is going to deal with
5 some labor adjustments, some facility issues,
6 other things including some recovery efforts.
7 It does include aquaculture money, some
8 additional Magnuson money, and some habitat-
9 restoration money. But other than that I'm
10 not going to talk about what we're spending
11 the '09 money on. I'm talking about what
12 we're asking for in '10, because I don't have
13 any slides on what we're spending the '09
14 money on and I don't know anything more about
15 it than that.

16 (Laughter.)

17 MR. RAUCH: I do, but I don't have
18 any --

19 MR. WALLACE: I'm glad I came all
20 this way.

21 (Laughter.)

22 MR. RAUCH: What we're asking for

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1 in '10 is another increase of \$911 million.
2 Most of this is for Magnuson Act increases in
3 funding. There is also a change dealing with
4 the Pacific Coast Salmon Recovery Fund, which
5 is up in the air, and I'll talk about that in
6 a minute.

7 Here are the lines that you can see
8 where most of the increases are coming from.
9 There is an increase in marine mammals.
10 That's the species grants. The biggest
11 increase -- and that's not -- the Protected
12 Species increase of 68 million is not a true
13 increase. I'll explain that. The biggest
14 true increase is in the Magnuson Act in terms
15 of the Magnuson Act Fisheries Research and the
16 Observers. Those are the actual increases,
17 which is just a bigger blow-up of the chart
18 that I just showed you.

19 Protected Species highlights. So
20 what this is, is we've got some additional
21 employees that will help us with the Native
22 Species Act consultations. We've taken the

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1 Pacific Coast Salmon Recovery Fund and zeroed
2 out that fund and instead created a national
3 fund called the Species Recovery Grant Fund.
4 And that is supposed to account for both
5 things that you would traditionally give in
6 the Pacific Coast Salmon Recovery money and
7 other money around the country.

8 This is officially under review by
9 the administration because of concerns about
10 the zeroing out of the dedicated funds for
11 Pacific Coast Salmon. And so it remains to be
12 seen whether or not this budget, although it's
13 rolled out, will continue to advocate for the
14 zeroing out of the Pacific Coast Salmon
15 Recovery Fund and instead having a more
16 generic fund. But for now this is what is in
17 the budget.

18 There's also money for Marine
19 Mammal Conservation and Recovery, including
20 the formation of a Take Reduction Team in
21 Hawaii and some Monk Seal money, there's some
22 Atlantic Salmon money and there's some

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1 additional Pacific Salmon money.

2 In Fisheries, the biggest increase
3 is for, as I said, the Magnuson-Stevens Act
4 implementation, including -- there's another
5 slide specifically on that which we'll talk
6 about in a minute. But there's also money for
7 Marine Monuments. This is the new -- not the
8 Hawaii -- but the Pacific, the three Pacific
9 Monuments that Bush declared. This is for
10 NOAA's participation in that.

11 There are some research funds for
12 CAMEO, which is a Comparison of Ecosystem
13 organization. There are funds, not as much as
14 they think they need, but a down-payment on
15 the Pacific Salmon Treaty that was recently
16 renegotiated. And there are some Ecosystem
17 Assessment Funds to go for California Current
18 Monitoring.

19 Here are the Magnuson Act
20 increases, so there's a total of \$98 million
21 to fund the new requirements of the
22 Magnuson-Stevens. There will be an additional

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1 \$12 million for Catch Limits, \$9 million for
2 Stock Assessments, \$4 million will go to the
3 Council, about \$5 will go to the Recreational
4 portion of Fisheries Information, 3 million if
5 IUU, and 3 million for Social Science
6 Research.

7 There's \$12 million in new money
8 that we're requesting for Enforcement, both
9 for Enforcement Agencies and for Observer
10 Programs that go into increase Observer
11 coverage in three Fisheries and add some new
12 Observer coverage in three other Fisheries.
13 And then \$1 million for Habitat for Deep
14 Coral, in terms of an increase.

15 Some other things that we're asking
16 for: \$2 million for Aquaculture, 1.2 for
17 Climate Change, 1.5 for Ocean Acidification, 6
18 million for Cooperative Research. And that's
19 it.

20 And that's not me. So if you have
21 questions on that, let me pause briefly for
22 questions on the budget. I know I went

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1 through that quickly, but we are running short
2 and I'm getting kicked under the table here --
3 not really. But questions?

4 MR. BILLY: Questions, yes. Jim.

5 VICE CHAIR BALSIGER: The number
6 that you had up there on -- no.

7 (Laughter.)

8 VICE CHAIR BALSIGER: This isn't
9 really a question, and you said this, but
10 those numbers were generally increases, so you
11 can't tell from these slides what the status
12 of those programs are, that showed the change
13 from the last program to the current change.

14 MR. RAUCH: That's correct.

15 VICE CHAIR BALSIGER: That 2
16 million for Aquaculture, that doesn't mean
17 we've only got 1 million in Aquaculture?

18 MR. RAUCH: That's right. That is
19 the change from the base for Aquaculture. I
20 don't have the complete total budget which
21 would show --

22 VICE CHAIR BALSIGER: And you did

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1 say that.

2 MS. LOWMAN: So, Sam, you may not
3 be able to answer this question, but in some
4 other documents that have come out there was
5 something about there being like \$18.6 million
6 for Catch Shares, and which I guess are pieces
7 of all of them. And I don't know, again, if
8 that's an increase or the total sort of Catch
9 Shares related budget part, but the other
10 thing I heard about that is it's all going to
11 New England. And --

12 MR. RAUCH: Okay. So let me first
13 answer the first part. So there is \$12
14 million in new money in the budget, in next
15 year's budget for Annual Catch Limits. There
16 is -- where is the Catch Shares, the LAPPS.

17 MS. LOWMAN: Catch Shares, LAPPS.
18 It's not really on --

19 MR. RAUCH: Alan.

20 MR. RISENHOOVER: Yeah. And we've
21 been trying to track the 18 million all
22 morning.

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1 MS. LOWMAN: Yeah.

2 MR. RISENHOOVER: And it finally
3 just hit a few minutes ago. It's a
4 combination of funding for New England going
5 primarily for Catch Shares. So it's about 5.6
6 million directly to our region for Catch
7 Shares. There's some Enforcement money,
8 there's some Cooperative Research money, and I
9 think there's some Observer money. So it's
10 kind of a crosscut of some of the things that
11 Sam presented.

12 MS. LOWMAN: Right. That's --

13 MR. RAUCH: And it's not all new
14 money, because we have a standing pool of
15 money that's in the recurring budget for
16 Limited Access Programs --

17 MS. LOWMAN: Right.

18 MR. RAUCH: -- that can be used and
19 is used to develop these programs, that is our
20 idea.

21 MS. LOWMAN: Right.

22 MR. RAUCH: So as new programs come

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1 online we can take money out of that. Some of
2 that is a reallocation of --

3 MS. LOWMAN: I guess the concern
4 obviously that I have on the West Coast, at
5 the year that we have to get all the
6 infrastructure up hopefully for an
7 implementation of 2011, is it's not clear what
8 the budget is of that work and it's sort of --
9 so it's scary to see there seems to be some
10 Catch Share money, which is a significant
11 amount, but I can't find any money, what the
12 budget is for implementation for the West
13 Coast one.

14 MR. RAUCH: Well, so to the extent
15 that the -- I mean the West Coast is dealing
16 with the Troll ITQ -- TIQ.

17 MS. LOWMAN: Yeah.

18 MR. RAUCH: And has gotten
19 significant funds --

20 MS. LOWMAN: Yeah.

21 MR. RAUCH: -- separate and apart
22 to help develop that. So that should be

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1 developed with existing funds right now.

2 To the extent that they're dealing
3 with Catch Limits, how are you going to
4 actually implement that part of it, there is
5 some money for that.

6 MR. RISENHOOVER: Right. And if
7 they chose to implement their Catch Limits
8 with Catch Share Programs, there's this
9 additional 4 million for the councils to
10 collect.

11 MR. BILLY: Martin.

12 MR. MARTIN FISHER: Sam, thanks for
13 being here. Of the \$9.9 does that span the
14 Stock Assessments, do you happen to know what
15 regions that money is going to?

16 MR. RAUCH: It's going to a number
17 of different regions. Let's see, I don't
18 think I know what specifically they are. I
19 mean we do have breakdowns of how all of this
20 is supposed to be --

21 MR. MARTIN FISHER: Gary has that?

22 MR. RAUCH: He does.

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1 MR. MARTIN FISHER: Okay. I'll
2 just call him.

3 MR. RAUCH: I don't have that.

4 MR. SIMPSON: Is that going to be
5 posted, Sam, on the website?

6 MR. RAUCH: I don't know. It might
7 be.

8 VICE CHAIR BALSIGER: I'm not
9 suggesting you pull out the Blue Book. That
10 would suggest its public.

11 MR. RAUCH: Perhaps. I did not
12 read the whole thing.

13 MR. SIMPSON: If it's in the Blue
14 Book it would be on the website.

15 VICE CHAIR BALSIGER: No, it's not
16 in the Blue Book. The details aren't in the
17 Blue Book.

18 MR. RAUCH: Yeah. So I mean what
19 we know, that I don't know. I don't have that
20 kind of detail. There are very detailed
21 tables that I didn't bring.

22 VICE CHAIR BALSIGER: Of course one

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1 of the problems is this is a President's
2 Proposed Budget and we don't know whether
3 we'll ever have these funds or not. And so
4 I'm not certain whether Steve Murawski and the
5 Science Board, which consists of Steve and all
6 the Science Center directors, they've talked
7 about where such an increase in Stock
8 Assessments, how it might be distributed. I
9 don't know that they'll actually pull the
10 trigger and make that decision until they find
11 how much money we've got.

12 And so, in philosophy and general
13 principle, we can talk about those issues and
14 we know in particular in the Southeast with
15 these five-year cycles, as you mentioned,
16 we've talked a lot about that and we're trying
17 to get a handle on that. So if you wanted to
18 talk to Murawski he could tell you what we're
19 thinking about. But until we have the money
20 we probably won't be able to say we're giving
21 this much here and there.

22 MR. RANDY FISHER: But that always

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1 brings up an interesting question because, as
2 you know, many of us around this room would
3 love to help you get more money. But it's
4 always been a problem that we can never figure
5 out where it's going.

6 You're going to have a boatload of
7 money left over in 2009, probably, because you
8 have been under some sort of spending cap. So
9 we know that. But we don't know the details
10 of any of this. And I would hope at some
11 point you could tell us what it was so we
12 could help you, and that's always been a
13 problem.

14 MR. SIMPSON: One other comment.

15 MR. BILLY: Larry.

16 MR. SIMPSON: A good comment. It
17 was a thing that came out that the
18 administration or the president was going to
19 make some cuts. And if we're going to cut so
20 many, I don't know how many, I can't remember
21 the numbers, earmarks. Well, I looked through
22 all those earmarks and I didn't see any of

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1 them that were at least in NMFS. So that's a
2 good thing.

3 MR. RAUCH: Yeah.

4 MR. RANDY FISHER: Well, this is a
5 very good thing.

6 MR. RAUCH: In general, this is an
7 increase. There are some programs that didn't
8 get increased or that got cut, but this is a
9 net increase and it funds -- we've gotten a
10 lot of flak for not fully funding the Magnuson
11 Reauthorization. This takes an effort to do
12 that. There will need to be more in future
13 budgets, but there are some controversial
14 cuts.

15 And if we restore the Pacific
16 Salmon Recovery Fund, where is that going to
17 come from?

18 MR. BILLY: Erika.

19 MS. FELLER: I can certainly
20 understand why there's angst over not funding
21 the Pacific Salmon Recovery Fund. But I'm
22 kind of interested in sort of the thought

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1 process or what is behind moving that into
2 sort of a Cooperative Endangered Species
3 Funding Program. Like would that be a
4 competitive grants program? What does the
5 Agency sort of hope to accomplish by doing
6 that?

7 MR. RAUCH: Well, I hesitate to
8 defend something that may be soon gone.

9 MS. FELLER: Well, I'm not -- I'm
10 actually not asking --

11 MR. RAUCH: But it would be -- but
12 it would be competitive. I mean --

13 MS. FELLER: I just want to
14 understand. I actually think it's
15 interesting. I mean --

16 MR. RAUCH: I mean, the idea is the
17 Pacific Coast Salmon Recovery Fund process is
18 out there and it has worked. So this would
19 actually represent -- it has always been
20 funded at levels higher than the
21 administration has come in. So the \$60
22 million is actually a higher mark than I

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1 believe the administration has put in for the
2 Pacific Coast Salmon Recovery in the past,
3 lower than what Congress has funded.

4 And so the idea would be to take
5 the Pacific Coast Salmon Recovery Fund and the
6 good things it has done -- and it is
7 competitive now to some extent -- and to
8 expand that nationally with some excess. But
9 there have been some concerns that you dilute
10 the Fund and that some of the Pacific Coast
11 Salmon money is going to get shipped over to
12 other areas.

13 But I think the general thought
14 processes was to take that program and make it
15 available on the same principle since it has
16 worked fairly well, or at least it seems to
17 have a lot of support.

18 MR. BILLY: Okay. Alright.

19 MR. RAUCH: I've got two other
20 things.

21 MR. BILLY: Go ahead.

22 MR. RAUCH: I've got the legislative

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1 thing.

2 MR. BILLY: The floor is yours.

3 MR. RAUCH: This won't take long.

4 So I've got the legislative --

5 MS. LOVETT: Do you want me to...

6 MR. RAUCH: You can put it up there
7 if you want.

8 MS. LOVETT: Okay.

9 MR. RAUCH: I'm not going to go --
10 there is this chart, is on the website, which
11 is the Legislation Tracker, which has got all
12 the bills that have NOAA issues on them. I'm
13 not going to through that. I will briefly
14 talk about a few of these bills. You can look
15 through these if you want. Most of these
16 bills are not going to go anywhere. It is
17 just like in a general Congress, you have a
18 lot of bills, only a few of them will actually
19 see movement.

20 Some that are of concern, the only
21 one that is -- by the way, the only one that
22 has passed so far and been signed is the

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1 Public Lands Bill which includes some actions
2 for Ocean Exploration, Ocean Acidification
3 Research, the Coastal and Estuarine Land
4 Conservation Program, and some other things in
5 there. The Senate version, which is on the
6 screen, that didn't pass, but the House
7 version did.

8 The Aquaculture Bill, which this
9 Committee has been very involved in in the
10 past, was introduced at the president's
11 request last Congress. It has not been
12 reintroduced this year. The president has not
13 requested it to be reintroduced yet. But the
14 Senate continues to work on that bill. The
15 House also is working on that bill and they're
16 taking a somewhat different tack towards it.
17 The Senate has in general been fairly
18 supportive and, as most of you have seen a
19 draft version of the bill that was circulating
20 around in the Senate, the House is looking to
21 increase the environmental requirements in the
22 bill and is very concerned about the Gulf

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1 Aquaculture Amendment under the Magnuson Act
2 and whether or not that should be allowed to
3 proceed.

4 I don't know that they will reach
5 agreement. We're working with both of them,
6 and I don't know where the administration will
7 come down on the bill. We're trying to
8 discern that. If they do, then that might
9 have some movement in this Congress, this two-
10 year Congress.

11 Seafood safety, something we heard
12 about this morning, and there's a group on,
13 there has been a bill in the Senate on seafood
14 safety, mainly to increase NOAA's role in
15 relationship to FDA. It does a few other
16 things.

17 This morning we looked at a version
18 of the bill which might actually require
19 certain labeling requirements, that you
20 actually have a set list of seafood that you
21 could actually sell, it's got to be on that
22 list. You can't market seafood if it's not on

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1 one of the recognized lists, to get rid of
2 some of the confusion in what you're buying,
3 to deal with this sort of basa, catfish kind
4 of problem. I don't know where that's going.

5 We have not seen a comparable bill in the
6 House. And I don't know that -- that bill has
7 not been introduced, so it's not on this list.

8 Some bills that are on the list are
9 a number of IUU bills, Illegal Unregulated
10 Unreported fishing bills, and Share Bills.
11 They're different bills but they're sort of a
12 similar -- on a similar tack. We've seen
13 movement on both of those in both the House
14 and Senate committees. We might actually get
15 one of those bills through Congress. Both of
16 them correct some loopholes of the prior IUU
17 bills and also seek to strengthen the approach
18 to international fishing.

19 The Coral Reef Bill has passed the
20 House. It is not in the Senate yet -- I think
21 I got that right. I might have got that
22 reversed. It's got a number of protections in

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1 there for coral reefs. It requires that there
2 be no damage to coral reefs, but there is an
3 exemption for fishing-related impacts.

4 One bill that's in there that I
5 want to point out because it also feeds into
6 the regulatory update is Congress passed a law
7 that gave the president the ability to review
8 a recent Endangered Species Act bill. You may
9 recall this Committee has a Protected
10 Resources Subcommittee and I approached the
11 Committee several years ago and indicated that
12 the administration was working on revising the
13 whole regulatory approach towards the ESA and
14 that my concern was that there had not been
15 sufficient public process in that.

16 And, sure enough, at the end of the
17 last administration, over the course of about
18 two months, we pushed through a ESA regulatory
19 reform package that was designed to both
20 reform the regulatory process and also deal
21 with the greenhouse gases: Whether or not you
22 can use the ESA as a tool to regulate

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1 greenhouse gases, and the rule the last
2 administration passed was that you cannot.

3 Congress then gave the president,
4 asked the president to review that and said
5 that the president could withdraw that rule
6 without going through any other public
7 process, and the president indeed did that
8 last month. We withdrew the ESA regulation
9 and indicated that we were going to start a
10 much more open and public process to evaluate
11 some of the concerns that are in there. And
12 so, if MAFAC wishes to revisit that we could
13 go talk to that subcommittee about that at
14 some other point.

15 Some other legislation that we
16 expect potentially to see movement on: The
17 Coastal Zone Management Act is up for
18 reauthorization. The administration is
19 working on a bill that it would like to
20 submit, but there have been a number of
21 movements. It may or may not see movement in
22 this Congress. It's particularly relevant,

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1 though, when we talk about some of the ocean
2 governance, and particularly governance of the
3 coastal zone that we'll talk about tomorrow.
4 The CZMA bill is a potential vehicle for some
5 of those changes.

6 The Sanctuaries Act is also up for
7 reauthorization. It may move or not. This
8 Congress, once again, we're still waiting to
9 see whether we can get an administration bill
10 through on that one.

11 HR 21, the big Ocean Bill which
12 deals with NOAA, Organic Act, and Ocean
13 Governance is also out there. It was out
14 there last Congress. I don't know whether
15 that's going to move.

16 And then there are a number of
17 habitat related bills that are out there that
18 are more isolated. One thing we would like to
19 see on that is the fish habitat legislation
20 for the National Fish Habitat Action Plan,
21 which creates a funding mechanism and an
22 organization mechanics. The Fish Habitat

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1 Action Plan is something that exists. It
2 recognizes these large ecosystem-base habitat
3 plans and tries to have them working towards
4 similar standards. We would like to see some
5 legislation on that, but nothing has happened
6 on that one. There is a more minor bill
7 somewhat similar to that which is the Salmon
8 Stronghold Bill that is working on the West
9 Coast.

10 And that is the legislative report,
11 sir.

12 MR. BILLY: Excellent. Well done.
13 Comments? Yeah, Steve.

14 MR. JONER: Sam, the Sanctuary Act
15 Reauthorization, is that the bill that went
16 forward back in the fall, the Sanctuary
17 Enhancement Act?

18 MR. RAUCH: It was a more limited
19 Sanctuary bill which changed some of the
20 boundaries of some of the sanctuaries, but it
21 was not the whole scale reauthorization of the
22 Act that is potentially out there.

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1 MR. JONER: The one that I saw had
2 the troll ban. Is that still --

3 MR. RAUCH: I think that was the
4 more limited one that focused on the sanctuary
5 boundaries and some other things.

6 MS. DOERR: There was a more
7 overall reauthorization of the Sanctuaries
8 Program bill introduced last Congress and
9 there's a hearing on it again.

10 MR. RAUCH: Right, but it did not
11 --

12 MS. DOERR: It did not.

13 MR. RAUCH: Yeah, but the sanctuary
14 boundary one, I think it passed.

15 MS. DOERR: Okay.

16 MR. BILLY: Steve.

17 MR. JONER: Where's our legislative
18 fix on the Pacific Salmon Treaty; is that ever
19 going to happen?

20 MR. RAUCH: It is in part -- I
21 think they've tried to attach that to some of
22 the IUU bills that are out there. Congress

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1 knows about the need to make that change. And
2 if any of the ones from the Commerce Committee
3 that we actually deal with, or the House
4 Committee, seem to be moving. I think the
5 idea is that they would append it to one of
6 those.

7 MR. BILLY: Okay. Bob.

8 MR. FLETCHER: Has there been any
9 movement on getting the TIGO Convention
10 (phonetic) authorized by Congress?

11 MR. RAUCH: I don't know. I don't
12 think so, at least not this year.

13 MR. FLETCHER: Because it makes the
14 U.S. look pretty bad. We're about the last
15 one.

16 MR. RAUCH: I understand.

17 MR. BILLY: Randy.

18 MR. CATES: Sam, does NOAA have a
19 position on the Gulf of Mexico's desire to
20 move forward with aquaculture?

21 MR. RAUCH: As to whether or not it
22 is legal or not?

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1 MR. CATES: Legal or they should do
2 it. What --

3 MR. RAUCH: Well, --

4 MR. SIMPSON: We submitted it.

5 MR. RAUCH: Right.

6 MR. SIMPSON: It's out of the
7 council's hands.

8 MR. RAUCH: The Gulf Council has
9 given it to us for approval. We have not yet
10 -- the Gulf Council passed it. It has not
11 been formally transmitted to the Secretary for
12 approval yet. We'll have to go out for I
13 think a 90-day -- or a 60-day public comment
14 period on that before we can take a final
15 statement as to whether or not we can do that.

16 So we've not taken a formal position on that,
17 but we supported it in the council process.

18 MR. CATES: Okay, Bill.

19 MR. DEWEY: Sam, I think it was
20 when you talked about the Omnibus Public Land
21 Management Act, you mentioned there was a
22 component of that that dealt with ocean

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1 acidification.

2 MR. RAUCH: Yes.

3 MR. DEWEY: Could you elaborate on
4 that?

5 MR. RAUCH: Probably not. It's got
6 -- it incorporates the Federal Ocean
7 Acidification Research and Monitoring Act of
8 2009.

9 MR. DEWEY: So that's where FOARAM
10 landed?

11 MR. RAUCH: Yeah.

12 MR. DEWEY: Okay.

13 MS. DOERR: Just to follow up on
14 the National Fish Habitat Action Plan
15 legislation. That should be introduced in the
16 Senate side in the next few weeks?

17 MR. RAUCH: Right. So that's why
18 we were hopeful that that can go, and I
19 imagine the administrative would be very
20 supportive.

21 MS. DOERR: Yeah, the hope was the
22 end of April, but that didn't...

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1 MR. BILLY: All right. Thank you
2 very much, both of you.

3 We're now scheduled for a break and
4 then the two, the Subcommittee and the Working
5 Group, will meet. The Fisheries Disasters
6 Working Group will meet in this room and the
7 Commerce Subcommittee is next door, through
8 that wall.

9 I wanted to query the Committee to
10 see if there are any major concerns if we run
11 a little past 5:00 to complete the work of
12 those two groups? We don't have to be ready
13 to go to the aquarium till 6:45, so I mean the
14 groups finish whenever they finish, but maybe
15 we might have to go a little over five
16 o'clock, just to let everyone know.

17 One minor objection to my right.

18 MR. SIMPSON: The East Coast time
19 people were ready to go at five o'clock this
20 morning.

21 MR. BILLY: Okay. Mark, do you
22 have any other announcements?

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1 DR. HOLLIDAY: Well, this is just
2 the listing of current assignments to
3 subcommittees in case people forgot if they're
4 a member of Eric's Working Group or they're
5 Protected Resources. So we are doing
6 simultaneous meetings of those subcommittees,
7 because within three days we couldn't run them
8 sequentially. So sometimes you'll have to
9 make a choice of which subcommittee or work
10 group to go to, but this was the existing
11 chairs -- and now we can't see it.

12 MS. LOVETT: Yes. I'm sorry.

13 DR. HOLLIDAY: Yeah. The last
14 column -- second to last is Fisheries
15 Disasters.

16 And, again, for the new members who
17 haven't met on some of these committees since
18 you've been appointed, so we don't have any
19 information down for you, but by the end of
20 the meeting we'll have this up to date, we'll
21 have the new subcommittee chairpersons, and
22 the membership figured out. So I just wanted

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1 to remind you of what the different
2 subcommittees were. We discussed this in
3 November, but one of my goals is to make sure
4 that we have homes for people to go and help,
5 where the real heavy lifting gets done in the
6 subcommittees.

7 MR. BILLY: Obviously everyone's
8 welcome to either.

9 DR. HOLLIDAY: Right. So Eric's
10 group is meeting in here because we need the
11 projector. We have an afternoon break here,
12 so if you want, grab some fruit or some
13 cookies.

14 (The MAFAC meeting recessed for the
15 day at 3:43 p.m. to resume May 13, 2009 at
16 8:30 a.m. The meeting of the Fisheries
17 Disasters Working Group was recorded and
18 transcribed below)

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FISHERIES DISASTERS WORKING GROUP

Tuesday, May 12, 2009

The Fisheries Disasters Working Group of the Marine Fisheries Advisory Committee met in the Colton Rooms I and II at the Monterey Conference Center, One Portola Plaza, Monterey, California 93940, at 3:58 a.m., Eric C. Schwaab, Chair, presiding.

MEMBERS PRESENT:

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1 BILL DEWEY
2 PATTY DOERR
3 ERIKA FELLER
4 MARTIN FISHER
5 RANDY FISHER
6 CATHERINE L. FOY
7 STEVE JONER
8 DOROTHY LOWMAN
9 HEATHER MCCARTY
10 VINCE O'SHEA
11 ERIC C. SCHWAAB, CHAIR
12 LARRY SIMPSON
13 DAVID H. WALLACE
14
15 ALSO PRESENT:
16
17 JESSICA M. DUTTON
18 CHURCHILL GRIMES
19 SAM RAUCH
20 ALAN RISENHOOVER

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

FISHERIES DISASTER WORKING GROUP (3:58 p.m.)

CHAIRMAN SCHWAAB: Will you help us sort of maneuver through the document on the screen?

MS. DUTTON: Sure.

CHAIRMAN SCHWAAB: So what we have on the screen is the April 29th draft which Jessica circulated with some changes, -- right?

MS. DUTTON: I'm sorry. I was in the middle of --

CHAIRMAN SCHWAAB: You circulated the April 29th draft --

MS. DUTTON: Yes.

CHAIRMAN SCHWAAB: -- to the members of the Work Group?

MS. DUTTON: Yes.

CHAIRMAN SCHWAAB: And there are additional changes that are highlighted to reflect changes that I made, just to try to

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1 continue to refine some of the language and
2 draw out some of the recommendations, because
3 throughout our work we've really tried to
4 focus on recommendations in some key areas.

5 For those who are new to the work
6 of the Work Group, or just as a refresher, I
7 think that from the perspective of
8 recommendations we have a pretty good set of
9 bookends in the sense that in the area of kind
10 of program principles and objectives, we
11 reached agreement around a couple of
12 recommendations that would seek to elicit from
13 applicants a better assessment of pre-disaster
14 conditions and the relationship between their
15 desired post-disaster outcomes and whatever
16 management plans might be in effect.

17 So, essentially, when you come in
18 for application for disaster moneys, we're
19 going to expect from you, the recommendation
20 would be that you should be expected to
21 provide some kind of an assessment of your
22 circumstances, recognizing that all disasters

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1 aren't created equally. In some cases you
2 just simply want to put the situation back to
3 pre-disaster condition as quickly as possible.

4 In other cases, because of some other
5 management problems, you might not want to put
6 it back 'as-is'. So at the front end you have
7 that.

8 At the bottom end, and, Jessica, if
9 you just kind of scroll quickly to the bottom
10 end, --

11 MS. McCARTY: Can I ask you a quick
12 question?

13 CHAIRMAN SCHWAAB: Yes.

14 MS. McCARTY: Did she send out the
15 corrected version?

16 CHAIRMAN SCHWAAB: No.

17 MS. McCARTY: Okay. Because it
18 would be helpful for those of us --

19 CHAIRMAN SCHWAAB: What's out
20 there.

21 MS. McCARTY: So we could see it
22 better, because that's really hard to see up

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1 there. So I recommend that she send it --

2 CHAIRMAN SCHWAAB: What's the best
3 way to do that?

4 MS. McCARTY: -- send it to the
5 MAFAC list that they have.

6 MS. DUTTON: I don't know if I can.
7 I definitely can pass it around on a thumb
8 drive, but I'm not sure if I have --

9 MR. MARTIN FISHER: You can't dump
10 it on the MAFAC site?

11 MS. DUTTON: We've been doing
12 everything remotely, emailing it to D.C. and
13 they've been putting it on the site for us.

14 MR. MARTIN FISHER: Oh, and they're
15 gone.

16 MS. DUTTON: Yeah, they're closed
17 for the day.

18 MR. MARTIN FISHER: Yeah, 7:00 to
19 1:00.

20 MR. DEWEY: Or you could just email
21 it to the MAFAC list.

22 MR. SIMPSON: Gail sent something

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1 out a little while ago. You could still do
2 that and still do a half a page and still see
3 it.

4 CHAIRMAN SCHWAAB: All right. I'm
5 just going to attach it. I'm going to send it
6 out.

7 (Pause in the proceedings.)

8 CHAIRMAN SCHWAAB: I just attached
9 it to one of the things that Bill Dewey sent
10 around and shot it to everything, so let me
11 know if it shows up.

12 MS. McCARTY: Okay, I will. Thank
13 you.

14 CHAIRMAN SCHWAAB: So at the bottom
15 end what we did was essentially agreed on kind
16 of some evaluation criteria, sort of at the
17 end of the process. So you sort of had this
18 bookend, you know: Do a good job of
19 identifying your proposed outcomes up front
20 and then make a recommendation that there
21 should be some sort of post-expenditure
22 evaluation and reporting back, so that we

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1 would have for the first time I think
2 something that we don't have now, which is any
3 kind of an understanding on a comprehensive
4 basis of what the expenditures of the disaster
5 money have accomplished. With the idea being
6 that that would provide a little more
7 accountability in the process.

8 And then where it's been sort of a
9 little bit of a struggle, I think, is, and
10 where I think I tried to draw out some
11 recommendations in this latest draft, is sort
12 of in the middle where we talked about a
13 number of implementation issues, a number of
14 allocation -- eligibility, implementation, and
15 allocation criteria.

16 Did everybody get it?

17 MR. DEWEY: Yes.

18 CHAIRMAN SCHWAAB: Not yet?

19 MS. McCARTY: I'm unattached now
20 for some reason, but great.

21 MR. DEWEY: I got it.

22 MR. RANDY FISHER: I got it.

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1 CHAIRMAN SCHWAAB: I think the only
2 other thing that I picked up from the earlier
3 discussion, particularly around the West Coast
4 Salmon is this idea of, I characterize it as,
5 at what point does it move from basically a
6 disaster to a new norm? Or, alternatively,
7 when you have these kind of cyclical -- you
8 know, if the new norm is a cyclical series of
9 events, then how do you deal with that? And I
10 think that to a large degree that's captured
11 in the economic assessment, I would think, but
12 maybe not. And I'm looking at Sam because I
13 know he's the expert.

14 MR. RAUCH: Well, yeah, I don't
15 know that it's captured anywhere. I mean we
16 get such differing input on this stuff, so I'm
17 not sure what you guys are planning, but we
18 get such differing inputs into the system that
19 it ranges from very detailed things that talk
20 about the cyclical nature and to just very
21 rudimentary submissions that just say, 'We're
22 losing money this year.'

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1 So the rule does require -- the
2 proposed rule says you have to compare to the
3 three-year prior average, which is intended to
4 get at least a three-year base line, --

5 CHAIRMAN SCHWAAB: Right.

6 MR. RAUCH: -- but not beyond that.

7 So it doesn't really -- I'm not sure it works
8 well for salmon which has cycles that are
9 basically three years and it's hard to capture
10 that. Does that answer your question?

11 CHAIRMAN SCHWAAB: I think so.

12 MR. RAUCH: All right. Good.

13 CHAIRMAN SCHWAAB: And I guess the
14 only other thing I would just sort of toss on
15 the table -- go ahead, Randy.

16 MR. MARTIN FISHER: Well, I guess
17 the only thing that continues to sort of
18 bother me, and I've looked at this thing and I
19 agree a lot with what we're doing, but -- and
20 I guess I would direct this to Sam -- I don't
21 think we want to invent something that
22 requires a lot of time for them to be

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1 reviewing something, because --

2 CHAIRMAN SCHWAAB: You mean a lot
3 of time for NOAA to be reviewing?

4 MR. RANDY FISHER: Yeah, or
5 anybody, because a lot of this stuff, then
6 they're going to have everybody bitching at
7 them that they're not getting the money out.
8 And that's a real balancing act, and I don't
9 know how we do that necessarily.

10 I mean currently the draft says the
11 applicant must do this. Well, I don't even
12 know who the applicant is anymore. I mean
13 basically now it's the governors that apply
14 under a disaster. So I guess the applicant
15 would be a governor then.

16 CHAIRMAN SCHWAAB: Well, I was
17 under the impression from our last call that
18 the applicant is commonly the governors, but
19 is not restricted to being the governors.

20 MR. RAUCH: In our view the
21 applicant could also be a mayor. It has to be
22 the executive branch agency that would be

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1 getting the money if we allocate it. So it
2 can be a local community, but it's going to be
3 the executive branch, whatever that is.

4 CHAIRMAN SCHWAAB: And that would
5 exclude a council or a commission?

6 MR. RAUCH: Well, some counties are
7 run by something or --

8 CHAIRMAN SCHWAAB: But I mean a
9 fishery management --

10 MR. RAUCH: Exclude fishery
11 management, it would exclude members of
12 Congress, it would exclude private
13 organizations.

14 CHAIRMAN SCHWAAB: Okay.

15 MR. SIMPSON: A commission?

16 CHAIRMAN SCHWAAB: An interstate
17 commission could apply.

18 MR. SIMPSON: You could --

19 MR. RAUCH: On the Fisheries Act,
20 not on the Magnuson Act.

21 CHAIRMAN SCHWAAB: Well, the only
22 other thing I was going to say was, which we

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1 talked about on the first call, I think it was
2 a point that Dave Wallace was particularly
3 making was there was this -- this question of
4 whether we were going to as a committee
5 comment on the rulemaking process or whether
6 our responsibility for sort of more broadly
7 defined than the rulemaking process, and I'm
8 not even sure.

9 I notice that Alan skipped over the
10 status of the -- at the time that we were
11 discussing this, we were -- timing and
12 logistics were going to prevent us from
13 weighing in during the comment period. And I
14 presume that's closed now, but I didn't hear
15 you mention that specifically.

16 MR. RISENHOOVER: Yes, it is
17 closed.

18 MR. RAUCH: It is closed, and I
19 think that if you had comments, formal
20 comments -- we're not moving forward yet.

21 CHAIRMAN SCHWAAB: Yeah.

22 MR. RAUCH: So I think we could

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1 accommodate comments. We might have to reopen
2 the comment period.

3 CHAIRMAN SCHWAAB: I think my only
4 -- and we could revisit this, but our concern
5 was that, number one, there was a timing issue
6 and, number two, there was maybe a level of
7 detail that we weren't really focused on at
8 that point, that our issues were more 'big
9 picture' issues. But I wouldn't rule that out
10 if somebody wanted to draft that section.

11 MS. McCARTY: Do both.

12 CHAIRMAN SCHWAAB: So I guess I
13 would -- we can walk through this or I can --
14 but before we did I would perhaps throw the
15 floor open to additional comments or
16 questions.

17 MS. DOERR: I have a comment on a
18 specific section, but it can wait.

19 CHAIRMAN SCHWAAB: Okay. No, go
20 ahead.

21 MS. DOERR: In regards to the
22 section on eligibility for recreational

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1 fisheries --

2 CHAIRMAN SCHWAAB: What page?

3 MS. DOERR: For the for-hire stuff.

4 I mean I am not prepared right now, but you
5 mentioned in here you need to do more
6 homework. I'm happy to help with that.

7 We had some of our members that
8 were affected by this statement in the
9 declaration. And so I wasn't involved in that
10 within our office, but I can kind of follow
11 back up with you and have a discussion with
12 regards to which of our industry members were
13 eligible and who weren't.

14 We have one member who his whole
15 business is manufacturing salmon trolling
16 equipment and he was eligible, so --

17 CHAIRMAN SCHWAAB: I'm sorry. I
18 didn't hear that last part.

19 MS. DOERR: His sole purpose was
20 his business was manufacturing salmon trolling
21 equipment.

22 CHAIRMAN SCHWAAB: Oh, okay.

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1 MS. DOERR: For the recreational
2 sector, and so he was somehow eligible for the
3 disaster assistance for salmon.

4 So, like I said, I wasn't
5 intimately involved with helping on that, but
6 I can once I get back to the office talk with
7 my boss and try a little bit more for this
8 homework assignment that you have.

9 CHAIRMAN SCHWAAB: So we had a lot
10 of discussion, Sam, about this sort of
11 universe of eligible players. And there was
12 -- I think Larry made the point that there
13 were ancillary benefits too, for example, the
14 recreational community or some aquaculture
15 interests that grew out of some of the
16 disaster-related activities on the Gulf Coast,
17 but that I think it was our understanding that
18 the recreational community as an economic
19 entity and perhaps even the individual
20 aquaculture operators might not be -- there
21 might be some eligibility issues that we want
22 to recommend be looked at in that regard.

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1 MR. RAUCH: So I think the statute,
2 at least the Magnuson Act, doesn't -- it says
3 that dock culture and the recreational fishing
4 can't be the basis for the disaster, because
5 it has to be based on a commercial fishery
6 failure. It doesn't -- it's not very clear on
7 who can be eligible. And we have in the past
8 -- usually the eligibility criteria are
9 defined by the congressional legislation. I
10 think we'd like to get away from that kind of
11 approach, and so we are often interpreting not
12 what the Magnuson Act said but what Congress
13 said.

14 In our view if there was,
15 particularly like the natural resources, I
16 mean the hurricane kind of disaster,
17 recreational fishing and aquaculture clearly
18 are both businesses that can be equally
19 affected by those kind of things. And so
20 there is -- so you could fund those kind of
21 things if you're clear in terms of if money is
22 appropriated, they could be eligible. And so

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1 I think those kind of comments would be well
2 received.

3 CHAIRMAN SCHWAAB: Um-hum.

4 MR. SIMPSON: And that was my
5 comment. I have no problem --

6 MR. RAUCH: Right.

7 MR. SIMPSON: -- with the basis of
8 declaring a disaster being a commercial
9 statistics fishery failure. But after that
10 the implementation of things to help address
11 those problems could very well be and by
12 nature the beast in the Gulf will be some
13 mixture of both recreational and commercial.

14 I mean when you put out new habitat
15 for artificial reefs you're not just enhancing
16 one segment, the commercial segment, you're
17 enhancing both, and I think you should.

18 CHAIRMAN SCHWAAB: But I think the
19 nature of our discussion was really focused on
20 direct -- some kind of ineligibility for
21 direct assistance, like a bit aquaculture
22 operator gets wiped out. Well, he doesn't --

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1 he or she doesn't necessarily want to wait for
2 ancillary benefits to accrue. There might be
3 seen direct assistance needed to put that
4 operation back on its feet. I mean the same
5 might be true of a community that is heavily
6 depending upon recreational-fishing related
7 businesses.

8 MR. RAUCH: I think that gets back
9 to sort of the kind of disasters that you laid
10 out to me before. For natural disasters, it
11 could happen to everybody. If it's a
12 commercial -- if it's a failure of the fishery
13 --

14 CHAIRMAN SCHWAAB: Right. Right,
15 right, right.

16 MR. RAUCH: -- and so the biomass,
17 aquaculture people may not be affected at all
18 by that, --

19 CHAIRMAN SCHWAAB: Yeah, yeah.

20 MR. RAUCH: -- but they may be well
21 positioned. But the recreational, dependent
22 industries, like the charter boat people, they

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1 could be just as badly affected as the
2 commercial people in that kind of situation.

3 CHAIRMAN SCHWAAB: Right.

4 MR. SIMPSON: And here's where I'm
5 going, Sam, and why I think that aquaculture
6 should be considered is that we are eventually
7 going to get to a point where some of the bait
8 fisheries that supply recreational and/or
9 commercial are going to be in a tropical
10 storm, hurricane situation, could be wiped
11 out. And in that instance I think it's
12 entirely appropriate that they should be
13 considered, not automatically written in. But
14 I mean if you've got bait shop operations that
15 supply this segment, I think it's a legit
16 thing, personally.

17 MR. MARTIN FISHER: Eric?

18 CHAIRMAN SCHWAAB: Yeah, Martin.

19 MR. MARTIN FISHER: Couldn't you
20 solve the problem by having different funds,
21 like immediate funds, immediate need funds,
22 and long-term rebuilding funds? And have

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1 different qualification processes for being
2 able to draw money from each one?

3 CHAIRMAN SCHWAAB: I'm sure you
4 could. I'm not sure --

5 MR. SIMPSON: I don't think that's
6 functionally the way to do it.

7 MR. MARTIN FISHER: Okay.

8 MR. SIMPSON: I think touching on
9 your issue, Martin, is something that I had
10 heard various constituents say, and you heard
11 it when Harlin said we want to be working at
12 the speed of industry, not the speed of
13 government.

14 MR. MARTIN FISHER: Absolutely.

15 MR. SIMPSON: All right. So what
16 he's saying is and he's speaking to, without
17 knowing what he saying, that there needs to be
18 an immediate pot that you can quickly access.

19 I mean from the point of declaring the
20 disaster to the appropriation of the money was
21 a full year. And then after the appropriation
22 of the money, then you start your process.

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1 We've got issues that are going on
2 right now. We're three years into this.

3 MR. MARTIN FISHER: Well, one year
4 is too long. A year is too long for any kind
5 of commercial --

6 MR. SIMPSON: But I don't think you
7 want to recommend two different pots. That
8 just causes more confusion, as Randy says.
9 Streamline it. I mean you can handle that
10 issue just as easily in one cooperative
11 agreement as you can in dealing with two
12 cooperative agreements.

13 MR. MARTIN FISHER: No, you're
14 right.

15 CHAIRMAN SCHWAAB: Randy. Heather.

16 MR. RANDY FISHER: So I guess this
17 is a question. The rule then doesn't preclude
18 Congress of appropriating the money any way it
19 wants.

20 MR. RAUCH: Good.

21 MR. RANDY FISHER: And what I want
22 to make sure of is we don't end up painting

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1 ourselves in a box, because however they're
2 going to appropriate at least my experience
3 has been people go back and look at what's in
4 that bill, the money, and say, well, it's for
5 both recreational and commercial.

6 So irrespective of what we put in a
7 rule or how we operate this thing, it still
8 comes down to how it is written. Is that not
9 the case?

10 MR. RAUCH: There is that chance
11 that it will do that. At the moment that
12 happens, because we don't have any
13 implementing regulations and we don't have any
14 standards, and so Congress puts their own
15 standards on there.

16 I think the thought of the National
17 Marine Fisheries Service when we proposed the
18 regulations is if we demonstrate to Congress
19 that we have a program with certain standards,
20 then they will funnel any money through that
21 program instead of having these separate
22 earmarks, because that's what that is. I mean

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1 the disaster funds are if it's outside of the
2 process, is it earmarked.

3 MR. RANDY FISHER: Right.

4 MR. RAUCH: And so if we have this
5 process we will have some ability to control.

6 You can't prevent Congress from doing exactly
7 what you suggest, if they so desire.

8 MR. RANDY FISHER: Yeah. I just
9 want to make sure I understood the
10 relationship between --

11 MR. RAUCH: Right. Congress
12 ultimately dictates.

13 MS. DOERR: So, I'm sorry, just
14 because I wasn't here. So the purpose of the
15 rule is to provide formal and long-standing
16 guidance for Congress to funnel money into, so
17 it's kind of to help get rid of the ad hoc
18 disaster assistance bills, to a certain
19 extent?

20 MR. RAUCH: Correct. There is
21 statutory authority but no money for
22 disasters. If Congress were to use -- to

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1 allocate money to a disaster declared pursuant
2 to the statutory authority, at the moment we
3 have no standards in which to say either this
4 is a disaster or it is, how the money should
5 be spent, so we would like to create the
6 standards. Because what's happening right now
7 is we're just buffeted by the political winds,
8 so we've got very needy fishermen in real
9 disasters that don't get any funding while
10 other ones, just because of the political
11 winds at the time, will get more than they
12 need. And so it's very, very difficult for us
13 to deal with. And it's been very difficult
14 for us to have any principles whatsoever --

15 (Laughter.)

16 MR. RANDY FISHER: Then we can rise
17 above them, for God's sakes.

18 CHAIRMAN SCHWAAB: And it goes
19 beyond that initial appropriations and
20 allocation process into the way that the money
21 is utilized. And there is very little -- I
22 mean in some cases -- I mean there's very

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1 little guidance or control over whether the
2 money is utilized in a way that's going to
3 lead to a better long-term in a lot of cases.

4 MR. RAUCH: Right. We would very
5 much like to use the money such that the
6 disaster will not reoccur in addition to
7 helping with the short-term economic needs.
8 But there's also, and this is particularly
9 with the salmon, the question is should we be
10 spending this money year after year after
11 year. Maybe it makes sense in some, but it
12 doesn't make sense in some other fisheries.
13 And so that's the kind of question.

14 And our proposed rule doesn't go
15 into this very much as to what restrictions
16 you would put on how to spend the money, to
17 try to ensure the disaster doesn't reoccur.
18 In what circumstances are direct assistance
19 payments to the fishermen worthwhile and in
20 what situation should you try for other
21 things, like capacity reduction or habitat
22 improvements or other things to try cure the

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1 problem?

2 CHAIRMAN SCHWAAB: Heather.

3 MS. McCARTY: Okay. Thank you.
4 That was going to be my question, Sam,
5 actually. Do you anticipate that the money
6 could be used under that scenario for
7 additional research or something to cure the
8 underlying fisheries problem? Is that what
9 you're talking about or are you talking about
10 strictly management techniques like reducing
11 the effort?

12 MR. RAUCH: The Magnuson Act says
13 that -- and I don't think it in front of me,
14 but it does say that we can spend the money to
15 ensure that the disaster won't reoccur. It
16 includes -- and it does talk about research to
17 do that, so I think that is a legitimate
18 source of the money, but it's still a vague
19 standard and that's part of what we'd like
20 input on, is how appropriately we should look
21 at that. What should our goals be in such a
22 scenario, assuming there's a pot of money, how

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1 should we deal with it?

2 CHAIRMAN SCHWAAB: And I think that
3 the discussion around that point in the Work
4 Group has been to provide -- to recommend
5 providing more sideboards and to recommend
6 that NOAA seek the authority or exercise the
7 authority to essentially require the applicant
8 to sort of articulate their thought process,
9 not to prescribe specific uses of the money,
10 but to say to the applicant, you know: If you
11 come in with a disaster request, you need to
12 articulate your current conditions and at
13 least have thought through how the application
14 of this disaster money is going to lead to
15 some different -- some set of circumstances at
16 the other end that are maybe better than the
17 ones that you had going in, if that's
18 appropriate.

19 MR. RAUCH: Right.

20 CHAIRMAN SCHWAAB: And I think just
21 to kind of get back to where this Work Group
22 is, while we didn't go down the road of

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1 talking about the detail of the rule, I think
2 our set of recommendations would be directed
3 to NOAA and would essentially be saying to
4 NOAA, you know: We, MAFAC as a committee,
5 think that you should again either seek or
6 exercise where it already exists the authority
7 to require these kinds of analyses and this
8 kind of information in a disaster situation.

9 And I think just the last point of
10 that, while that won't prevent Congress from
11 going outside that system, it's going to, I
12 think, create -- it would make it a little
13 more difficult to do that.

14 MR. RAUCH: Those are our thoughts.

15 CHAIRMAN SCHWAAB: Yeah.

16 MS. McCARTY: Can I give you a
17 scenario and ask you if this is something that
18 you're imagining could be covered by the new
19 rule?

20 There's been like I think nine
21 years now of disaster declarations in the
22 Bering Sea for a particular species of crab

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1 that hasn't recovered. And it keeps being
2 rolled over. Yes, another disaster
3 declaration, another disaster declaration.
4 And so what you're imagining then is that
5 instead of doing that, there would sort of be
6 an end to that where you no longer got
7 disaster funding for something that seems to
8 be a permanent condition, number one. So
9 there would either be no more funding or there
10 would have to be some sort of plan in the
11 application that indicated what changes you
12 might suggest in the management structure and
13 perhaps in the research science area to
14 rectify the conditions rather than just keep
15 getting money because there are no crab.

16 Is that a good example of what
17 you're imagining? Because that's an actual
18 situation in the Bering Sea, was it nine years
19 now they've been getting that? Almost a
20 decade, for example.

21 CHAIRMAN SCHWAAB: I think the rule
22 as proposed would take care of that.

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1 MR. RAUCH: The rule as proposed
2 would say you don't get roll over, so it would
3 have prevented what we just did in California:

4 You don't get these roll-over determinations.

5 I mean it happened once, you got it. You can
6 -- it doesn't talk about funding ending. The
7 rule doesn't say your disaster funding ever
8 has to end.

9 I think the theory, though, is at
10 some point it ceases -- if it's that
11 permanent, it's easy to become a disaster,
12 which has implications of urgency, and you
13 could start planning for it. I mean at some
14 point it shouldn't be disaster funding, but it
15 should be in the normal budget process and you
16 should figure out how you deal with that.

17 MS. McCARTY: I was just trying to
18 understand.

19 MR. SIMPSON: Ours is a five-year
20 broke.

21 MR. RANDY FISHER: Ours is a three.

22 MR. SIMPSON: We'll spend out five

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1 years or get pretty close and then have no-
2 cost extensions, but there's going to be no
3 more money.

4 MR. RANDY FISHER: It seems to me
5 at our last meeting we had quite a bit of
6 discussion about it and I think this is a
7 valuable thing to do, the more I think about
8 it, and that is there's no doubt in my mind
9 that we're going to have disasters in the
10 future, whatever kind they are. Salmon
11 crashes, crab crashes, tornadoes, hurricanes
12 are going to happen.

13 So one of the things that we hear a
14 lot about is, well, let's do a buyout, or
15 let's do this or that, or whatever the hell
16 they think of. And one of the things we
17 talked about is it would be smart for us to go
18 back and look at the disasters over a period
19 of time that we've had and figure out what
20 worked and what didn't. Because one of the
21 things that will happen, I guarantee you, is
22 that somebody's going to say, well, I want

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1 this. You know, like the cash buyout we did,
2 I don't know whether it did any good. I mean
3 it put a helluva a lot of money into the
4 coastal communities, which is good, but did it
5 help people out of their situation? The
6 answer is no.

7 So we may be wise to look at those
8 that we've had experience with to help us look
9 into the future, to see, to help us structure
10 what some programs could be.

11 CHAIRMAN SCHWAAB: Well, why don't
12 we just walk through just the recommendations
13 part of this document and we can sort of
14 scroll down through on the screen here as we
15 go. And I guess I would sort of welcome a
16 couple of things. Number one, just in our
17 report on Thursday, I'd like to be able to say
18 here are generally the set of recommendations
19 and focus on the recommendation component of
20 this report, recognizing that -- and as you'll
21 read through this you'll see that there's
22 still, I think, a lot of sort of editorial

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1 opportunity that remains in the text as well
2 as in the specific language of the
3 recommendations and would invite further
4 editorial comments as we bring this thing to
5 sort of a document that we can all be
6 comfortable with.

7 But on Thursday it seemed to me it
8 would be most important that we be able to
9 say: Look, here are the recommendations in
10 general that we all agree upon.

11 Heather.

12 MS. McCARTY: I have a kind of a
13 comment about the first element, Roman numeral
14 I. The potential recommendation at the end,
15 the one that seems to be new, "Where
16 circumstances dictate a different post-
17 disaster management outcome than pre-disaster
18 conditions of the fishery, the applicant
19 should be requested to articulate post-
20 disaster management conditions and design, and
21 include evaluation criteria to measure
22 successful action." That sounds like kind of

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1 a tall order to me. And it also sounds like
2 almost a direct contradiction of the first
3 paragraph where it says, "In all cases it
4 needs to be recognized that disaster funding
5 is not intended as a management tool." It
6 seems those two things seem to be in
7 contradiction, because basically you're asking
8 them in this final recommendation to outline a
9 new management scenario practically.

10 CHAIRMAN SCHWAAB: So the question
11 is if you've got a fishery that's not
12 operating according to -- you know, if you've
13 got some management objectives in the fishery
14 that say it's overcapitalized and your
15 management objective is to right size it, now
16 it is hit with a disaster. Do you put it back
17 in an overcapitalized situation or --

18 MS. McCARTY: I understand.

19 CHAIRMAN SCHWAAB: -- or do you put
20 it back in the place where the management plan
21 prescribes it to be.

22 MS. McCARTY: I understand. I'm

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1 just saying --

2 CHAIRMAN SCHWAAB: You don't like
3 it?

4 MS. McCARTY: No. It's not even
5 that I don't like it. It's just the --

6 CHAIRMAN SCHWAAB: You don't like
7 the way it sounds.

8 MS. McCARTY: The whole section is
9 a little bit contradictory. You should at
10 least take out that sentence that says it's
11 not intended as a management tool, because it
12 clearly is.

13 CHAIRMAN SCHWAAB: No, no. I don't
14 think contradictory.

15 MS. McCARTY: No?

16 CHAIRMAN SCHWAAB: They talk
17 directly about --

18 MS. McCARTY: Okay. I'm sorry I
19 missed that meeting probably.

20 MR. SIMPSON: I think what we're
21 getting into in the Committee is discussions
22 of: Okay, we're going to fix management

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1 problems --

2 MS. McCARTY: Right.

3 MR. SIMPSON: -- in a disaster
4 declaration. Wrong, wrong.

5 MS. McCARTY: Okay.

6 MR. SIMPSON: Turn around, go the
7 other way. That's what the councils were
8 designed for.

9 MS. McCARTY: Okay.

10 MR. SIMPSON: All right. The
11 disaster declaration is simply to address a
12 disaster, not as a tool or a proxy to get at a
13 management measure that some group has wanted
14 to address. Don't put -- don't layer that
15 onto this. God's sakes.

16 CHAIRMAN SCHWAAB: But if you have
17 --

18 MS. McCARTY: Well, it just kind of
19 sounds like that's what it's doing. I'm
20 sorry.

21 CHAIRMAN SCHWAAB: But if you have
22 -- no. Think about this. You're at X and you

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1 have a management objective independent of the
2 disaster, if you have a management objective
3 to get to Y, now along comes a disaster.

4 MR. SIMPSON: Don't use it as --

5 CHAIRMAN SCHWAAB: Don't go back to
6 X, use the disaster funding to help you get to
7 Y, where you've already agreed you want to go.

8 MS. McCARTY: Right, I understand
9 completely. I'm just saying I'm hearing sort
10 of a little bit contradiction in the language
11 that --

12 CHAIRMAN SCHWAAB: No, no. The
13 difference is -- the difference is you're at X
14 and there are some people that think it would
15 be nice to go to Y, but it's never agreed
16 upon, and now you have a disaster and suddenly
17 you move things to Y using the disaster even
18 though that's never been an agreed-upon
19 management objective.

20 MR. O'SHEA: So, well, then I guess
21 you could --

22 MR. DEWEY: Cathy has a solution.

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1 MS. FOY: I have a solution. We
2 can tweak the wording a little bit. At the
3 beginning of the paragraph where, "However, in
4 other circumstances there are additional
5 conditions that could be considered as
6 fisheries are rebuilt to ensure the results
7 are complementary to other fishery management
8 goals."

9 MR. SIMPSON: There you go. That's
10 good. Wonderful.

11 MS. FOY: Take out that
12 "complementary to" and "results are consistent
13 with current mandated fishery management
14 goals." It's mandated, it's law. It's not
15 something that's anything you have to do.

16 MS. McCARTY: I got you. I
17 understand. I'm just saying that last
18 potential recommendation sounds different --

19 MS. FOY: It does.

20 MS. McCARTY: -- than that.

21 MS. FOY: I agree with Heather that
22 saying that it's not a management tool is --

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1 shouldn't even be in there. We don't want to
2 refer to it.

3 CHAIRMAN SCHWAAB: Okay. Well, we
4 could just take that line out.

5 MS. McCARTY: I want to hear what
6 Vince has to say, too.

7 CHAIRMAN SCHWAAB: Go ahead, Vince.

8 MR. O'SHEA: I was just going to
9 say rather than ask Heather to say it for the
10 fourth time that it's broken, why don't we --
11 how would you fix it, Heather?

12 MS. McCARTY: Number one, I missed
13 a meeting, so I'm just trying to understand
14 where you're really going. And I'm saying
15 that to a first-time reader of this current
16 version it sounds as though you're saying one
17 thing at the top and another thing at the
18 bottom, so --

19 MR. O'SHEA: And they don't want to
20 change the thing at the bottom, so how do you
21 change the thing at the top --

22 CHAIRMAN SCHWAAB: So we'll take

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1 out the reference to the line that says, --

2 MS. McCARTY: Either way is fine
3 with me.

4 CHAIRMAN SCHWAAB: -- "In all cases
5 it needs to be recognized that disaster
6 funding is not intended as a management tool."

7 MS. McCARTY: Okay. Because since
8 --

9 CHAIRMAN SCHWAAB: We'll take that
10 out.

11 MS. McCARTY: -- I didn't attend
12 the second meeting I'm not sure where this
13 group decided they wanted to go. And I'm just
14 saying to a first-time reader it sounds like
15 you're saying two different things. And so
16 whichever it is that you decided, you tell me
17 because I don't know.

18 MR. O'SHEA: Right. And I think
19 Eric's explanation is you don't want to
20 rebuild to an overcapacity condition if the
21 management's plan already decided that you
22 need to reduce capacity, you want to take that

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1 -- and that's why they didn't interpret that
2 as a management tool.

3 In other words, a management
4 decision had already been made to reduce
5 capacity. I'm not -- I'm saying that was the
6 thinking behind that idea, but what I'm
7 picking up from you is a language issue
8 between the top and the bottom.

9 MS. McCARTY: Yes.

10 MR. O'SHEA: Yeah.

11 CHAIRMAN SCHWAAB: So we got that
12 fixed.

13 MS. McCARTY: Okay.

14 CHAIRMAN SCHWAAB: So we've got
15 four potential recommendations in that
16 section. How -- what's the level of comfort
17 with that now?

18 MS. McCARTY: Can I ask you one
19 more question?

20 CHAIRMAN SCHWAAB: Sure.

21 MS. McCARTY: In the final
22 potential recommendation, the one that's in

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1 blue on the screen and that's in red on my
2 screen, "Where circumstances dictate a
3 different post-disaster management outcome,"
4 what circumstances are you referring to there?

5 Just to make it clearer to me and perhaps --

6 CHAIRMAN SCHWAAB: Well, things
7 like -- I mean one example is an
8 overcapitalized fishery. I mean that's not
9 the only.

10 MR. SIMPSON: I think she's
11 referring to two things. Sometimes you just
12 want to restore back like it was before.

13 CHAIRMAN SCHWAAB: Yeah.

14 MR. SIMPSON: Another scenario is
15 sometimes you want to make a change. I think
16 that's what it's about.

17 CHAIRMAN SCHWAAB: Well, --

18 MS. McCARTY: I think obviously a
19 key point here is if different management --
20 if a different management regime had been
21 contemplated before the disaster, then you can
22 go ahead and sort of make that a condition.

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1 If it hasn't been contemplated, you cannot.
2 Is that what you're saying?

3 CHAIRMAN SCHWAAB: Yes.

4 MS. McCARTY: Okay. Why don't you
5 just say that?

6 MR. SIMPSON: I wouldn't make it a
7 condition. I'd just say: This is to help you
8 do it, and let the states say this is what --
9 or whoever it is, in my case it's the stats --
10 this is what we want to do. And that works
11 out between NOAA Fisheries and that
12 Cooperative Agreement, in the Statement of
13 Work. I mean it's approved.

14 For example, we're going to buy out
15 some gill netters in the State of Alabama.
16 Now there's an agreed-upon need to do it. But
17 the disaster didn't say you're going to reduce
18 the gill netters in Alabama, it's just helping
19 you get that done.

20 MR. DEWEY: So is it circumstances
21 or is it management plans that you're looking
22 for to dictate the changes?

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1 MS. McCARTY: Yeah. Thank you,
2 Bill.

3 MR. WALLACE: The management
4 objectives were set up to do something --

5 MR. DEWEY: So maybe instead of
6 "circumstances" we should say "management
7 objectives."

8 MS. McCARTY: "Where contemplated
9 management objectives," or something like
10 that.

11 MR. SIMPSON: See, I don't want you
12 to get too close back to that using the
13 disaster thing as being a management tool.

14 CHAIRMAN SCHWAAB: Correct.

15 MR. SIMPSON: I want to stay away
16 from that.

17 CHAIRMAN SCHWAAB: I'm going to --
18 right now that's the new master copy back
19 there that Jessica has.

20 (Laughter.)

21 MS. DUTTON: Where am I making that
22 change?

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1 CHAIRMAN SCHWAAB: In that last
2 recommendation.

3 MR. SIMPSON: You're going to play
4 come early. Right?

5 CHAIRMAN SCHWAAB: And I don't want
6 to -- let me just say, I mean I think we're
7 going to run out of time quick if try to
8 wordsmith everything, so we need to get the
9 major issues on the table.

10 MS. McCARTY: We can do it or they
11 can do it, right?

12 CHAIRMAN SCHWAAB: I just...

13 MR. O'SHEA: Eric, I think one of
14 the things that I'm a little confused now is
15 when we were talking about this, you had just
16 come off of dealing with a disaster in your
17 own state. And I'm not exactly sure where you
18 all were in terms of your management plan
19 knowing that you had to reduce capacity, but I
20 think when we were kicking this around you
21 were acknowledging that that would be a good
22 thing to take into mind when you were handing

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1 out the money. So kind of putting you on the
2 spot here, but it seems to me like this is
3 moving backwards from where you want it to go.

4 MS. McCARTY: Do you want to a
5 buyout; is that what you're looking for --

6 MR. O'SHEA: Well, at least
7 somebody wanted to go on --

8 CHAIRMAN SCHWAAB: Well, I guess it
9 sort of comes to question, I mean, as to now
10 this language that we've got with respect to
11 sort of a management plan objectives, or
12 something, it sort of becomes a question of
13 whose management plan objectives. And in some
14 cases like the blue crab fishery, some of that
15 was a little bit loose. It was clearly
16 envisioned as a problem at some levels, but
17 there's not a management plan that exists that
18 says explicitly. But I don't think this would
19 create a problem in that circumstance for us.

20 MR. O'SHEA: It gives you the
21 flexibility you needed?

22 CHAIRMAN SCHWAAB: Yeah.

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1 MR. O'SHEA: Okay.

2 CHAIRMAN SCHWAAB: Alright. So the
3 next section, there were a couple of issues, I
4 mean we talked about a lot of different
5 things, but there were a couple of things that
6 sort of came. Again, and I'm not sure that
7 we're -- these eligibility issues, there were
8 a couple of things that had some significant
9 focus in our conference call discussions.

10 The one we've already talked about,
11 which was -- and maybe the wording here also
12 needs to be changed, but specifically to
13 recommend clarity around eligibility for
14 aquaculture, recreational related economic
15 impacts and for-hire, and that was sort of the
16 general premise that there was a lot of
17 discussion in the Work Group about.

18 And I presume we still have that,
19 we may just want to say it a little bit
20 differently, or maybe not. Maybe it's fine
21 like it is --

22 MR. O'SHEA: Well, I mean this was

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1 just as going to define it, that's all, and
2 get it done before you start down the process,
3 because questions -- your point, Randy, was
4 questions are going to come up.

5 MR. RANDY FISHER: Oh, yeah.

6 MR. DEWEY: So, Sam, just so I'm
7 clear, the disaster has to be initiated by a
8 fisheries disaster? So what's lingering in my
9 mind is our problem that we're having in the
10 Pacific Northwest right now with our seed
11 supply emergency, where our natural sets of
12 failed and our hatchery production
13 availability has failed and it's affected the
14 whole West Coast industry. Something's going
15 on in the ocean that's affected our ability to
16 produce seed, yet it doesn't seem like --
17 unless it's affecting some other fishery, we
18 wouldn't be eligible for assistance under this
19 program.

20 MR. RAUCH: Well, under the current
21 Magnuson Act, but this Committee could decide
22 that you don't like that answer and could ask

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1 us to go look for legislative fixes to that
2 kind of stuff.

3 MR. DEWEY: That was my point when
4 I raised it originally, is if NOAA and MAFAC
5 are trying to encourage aquaculture and
6 increase domestic aquaculture production, we
7 should encourage programs that support that as
8 well as sustainable fisheries and it shouldn't
9 be incumbent on a fisheries disaster for
10 assistance to come to aquaculture.

11 MR. RAUCH: Right. You know there
12 are movements, and I don't know where it lies
13 right now, to declare aquaculture operations
14 particularly in the southeast to be akin to
15 farms, and so when that happens you have the
16 farm disaster provisions that will kick in.
17 And they did something like that for some of
18 the catfish farms, I think, but that's not
19 clear. But that's out there. That's
20 something this Committee could decide to
21 recommend.

22 CHAIRMAN SCHWAAB: Well, yeah, I

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1 mean that was clearly where the Committee was
2 in the Work Group discussions, that this was
3 something that we wanted to recommend. I
4 guess the question is are we still there or is
5 there some --

6 MR. DEWEY: I'm still there.

7 CHAIRMAN SCHWAAB: Okay. Any
8 objection to us remaining there?

9 (No hands raised.)

10 CHAIRMAN SCHWAAB: All right. So
11 this next point, which was something we had
12 some discussion about and I tried to draw it
13 out into a recommendation, just to facilitate
14 discussion, was this idea that there were
15 certain behaviors, high-risk behaviors was the
16 way I think it was characterized, somebody
17 that is underinsured or I can't remember which
18 member of the Work Group brought that up, but
19 that there should be some kind of a risk-
20 assessment component to eligibility so that
21 they aren't simply -- disaster funds aren't
22 used to perpetuate or reestablish in high-risk

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1 circumstances. And I can't remember who
2 brought that up in the Work Group discussion,
3 but I tried to capture it in the
4 recommendation here just so we could focus on
5 it.

6 MS. McCARTY: And this is just for
7 those other categories, not for commercial
8 fisheries? This is just for the aquaculture,
9 recreational, and so on? Not for the
10 commercial fisheries; is that...

11 CHAIRMAN SCHWAAB: I wouldn't say
12 that. I can't remember the comment.

13 MS. McCARTY: I'm just curious.

14 CHAIRMAN SCHWAAB: I don't remember
15 who brought it up.

16 MR. O'SHEA: I thought one was an
17 issue of you can't build a beach house down on
18 the ground anymore, so if you had an ice house
19 or a fish house or something that maybe it
20 needed -- it had to be rebuild not at the wall
21 level but at a higher level, that might have
22 been the example.

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1 MS. McCARTY: This is a tough one,
2 really. I mean I see the need for it, but I
3 can also see --

4 MR. SIMPSON: I even see problems
5 with that living where I live. I mean the
6 industry built to Hurricane George and then,
7 by God, Katrina was here. I mean we're going
8 to keep going and it's going to blow over,
9 it's going to be so high.

10 MR. O'SHEA: That's right. I'm
11 just saying that was the discussion I think we
12 had on the phone, the example.

13 MR. SIMPSON: The point is try.
14 Yeah, I mean there's some things like
15 construction of houses with the straps and all
16 that kind of -- that's good. But I mean you
17 can get -- and, trust me, I've heard every
18 horror story you can hear, and you can get out
19 of line.

20 MS. McCARTY: The whole risk-
21 assessment process sounds somewhat difficult
22 to me, but I could be wrong. It sounds

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1 impractical, but...

2 MR. RANDY FISHER: Well, this is
3 just asking the applicant, isn't it, to
4 provide some of that information? Not that I
5 can read it, because I really can't.

6 CHAIRMAN SCHWAAB: Yeah. I mean
7 perhaps one way to approach this would be to
8 soften this language a little bit.

9 MS. McCARTY: It says, "By
10 providing eligibility to individuals who have
11 made or have perpetuated high-risk decisions,"
12 that's a real subjective kind of thing unless
13 you have some really, you know, hard and fast
14 rules there. It's a whole another section
15 that you'd have to make pretty strong rules or
16 else somebody would just have to make a
17 subjective decision on whether it was high-
18 risk behavior or not. I don't know. I don't
19 have any objection to the concept. It just
20 seems like the application -- the
21 implementation might be difficult.

22 CHAIRMAN SCHWAAB: Yeah. Well, I

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1 guess what I would ask Heather is to focus on
2 the recommendation and see if there's a way to
3 get at some analysis of this concern without
4 requiring...

5 MR. RANDY FISHER: Well, it almost
6 should be under the Principles and Objective
7 part of the thing when the applicant comes in,
8 if that's what this is about, I mean.

9 MS. McCARTY: Yeah.

10 MR. RANDY FISHER: I mean the idea
11 being why would we invest money back into
12 something that's going to blow over the next
13 year, or whatever it is, that's a really,
14 really super high risk.

15 MS. FELLER: So I kind of find
16 myself wondering, I mean what's sort of the
17 scope of who these recommendations are
18 directed at. Are they directed to the
19 Fisheries Disaster Rule? Are they directed at
20 NOAA more generally? Could they be
21 recommendations for what --

22 CHAIRMAN SCHWAAB: NOAA more

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1 generally.

2 MS. FELLER: Well, so if that's the
3 case, I mean the question of what constitutes
4 high-risk behavior can be subjective, but in a
5 lot of instances it's not. It's something
6 that's very, very quantitative. You know
7 insurance companies do this, FEMA does this.
8 There have been a lot of instances where
9 people are developing building standards in
10 earthquake-prone zones. There are hard and
11 fast rules.

12 So maybe the question should be
13 about defining what the high-risk behaviors
14 are and maybe using things like, I don't know,
15 the Coastal Zone Management Act, or telling
16 NOAA to go work with FEMA to try and look at
17 what some of the high-risk issues are for
18 these specific sectors in these fishing
19 communities to say what are high-risk
20 behaviors, what types things should be doing.

21 I mean it's going to take some time probably
22 to develop and implement, but it may be a

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1 worthwhile question to get them working on.

2 MR. O'SHEA: But just because it's
3 difficult to define doesn't mean it's a public
4 policy concept, it isn't, or recommend the
5 Agency ought to look at this.

6 MS. McCARTY: Yeah. No, I have no
7 problem with the concept. I really don't, I
8 just seems like it adds a whole level of
9 complexity to the application and the granting
10 procedures. But I'm sure it can be done
11 quantitatively.

12 MS. FELLER: Like maybe getting --

13 MR. RANDY FISHER: Well, we just
14 tell Sam to go do it; what's wrong with that?

15 MS. McCARTY: Yeah.

16 MR. O'SHEA: Fifty million dollars,
17 might have to do some work.

18 MS. FELLER: I guess what I'm
19 suggesting is the recommendation should be
20 more analysis-developing of systems rather
21 than something that's operationalized in
22 disaster declarations and providing people

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1 assistance first. Need to come up with a
2 framework with it first because -- and then
3 with the idea of implementing something. But
4 I think it could be highly subjective if you
5 tried to implement it today.

6 MS. McCARTY: Yeah.

7 MR. MARTIN FISHER: Eric, I'm a
8 little confused. At least in our region our
9 regional office is pretty up on top of what is
10 and isn't working in our fisheries and they
11 already know what modalities are outdated or
12 not working, so I don't even think it's so
13 much of a question of asking the fishermen or
14 asking the stakeholders to come up with their
15 self-analysis or even ask the Agency because
16 it's already there. We already know what's
17 antiquated and what needs to be changed.

18 MR. RAUCH: Some of these disasters
19 happen in federal waters, but a lot of them
20 happen in state waters. And the federal
21 regional office doesn't have a good grasp, and
22 that was the case with blue crabs, is we

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1 didn't have a good understanding --

2 MR. MARTIN FISHER: Well, that's
3 true.

4 MR. RAUCH: -- of how that fishery
5 operated or what would work and what didn't
6 work.

7 MR. MARTIN FISHER: Well, what
8 about the state wildlife commission or...

9 MR. RAUCH: We had to rely on that.

10 CHAIRMAN SCHWAAB: And just to -- I
11 mean just to illustrate sort of I think the
12 range of currently-acceptable responses. We
13 had a blue crab fishery disaster, what, six,
14 seven years ago. An amount of money came in
15 and each crabber got a check for \$500. Now we
16 have a new disaster, an amount of money is
17 coming in, and we've put forth a plan that
18 says we're going to put these guys to work on
19 habitat-restoration projects and research.
20 We're going to use a portion of the money to
21 downsize the fishery, licensed buybacks, et
22 cetera, et cetera. And we're going to do a

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1 number of things that hopefully are going to
2 put us in a place where seven years from now
3 we're not going to be back asking for another
4 fishery disaster.

5 And, oh, by the way, these guys
6 would not have approved the disaster
7 declaration except that Barbara Mikulski got
8 money appropriated.

9 MR. MARTIN FISHER: I see where
10 you're going, I see what you're saying.

11 CHAIRMAN SCHWAAB: Yeah. so part of
12 this is trying again for us as a committee to
13 make some recommendations to NOAA that,
14 frankly, are designed to help give NOAA the
15 cover that they need to create a better
16 mousetrap, so that they're not constantly at
17 the bottom end of these things saying, 'Yeah,
18 okay, we'll do whatever you tell us to do.'

19 MS. McCARTY: That's one thing, to
20 get rid of it.

21 (Laughter.)

22 CHAIRMAN SCHWAAB: All right.

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1 Well, okay, so what I hear us -- Heather.

2 MS. McCARTY: I have a
3 recommendation for this particular one on
4 risk. I think if you use it as an eligibility
5 criteria it can't be used -- it can only be
6 used if they have already known that that's an
7 eligibility criteria and built or done
8 something after that. You can't use it for an
9 initial eligibility criteria. You can use it
10 for a criteria for how you put money into the
11 disaster, period, but not for an eligibility
12 criteria. That's what I think.

13 CHAIRMAN SCHWAAB: Now,
14 alternatively, where I heard the discussion
15 moving before you said that, Heather, was for
16 us to simply make a recommendation to NOAA
17 that they look into this issue and they
18 develop a system for applying --

19 MS. McCARTY: In the future.

20 CHAIRMAN SCHWAAB: In the future.

21 MS. McCARTY: Right. You can't use
22 it --

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1 CHAIRMAN SCHWAAB: Is that equally
2 acceptable to you?

3 MS. McCARTY: That's fine. That's
4 fine. The way it is, it actually -- it says:
5 If you've done anything that's high risk you
6 can't apply for the disaster money.

7 MS. LOWMAN: Yeah, because you may
8 not have known it was high risk --

9 CHAIRMAN SCHWAAB: Okay. So we've
10 agreed we're going to fix that, right?

11 MS. McCARTY: Yeah.

12 CHAIRMAN SCHWAAB: See, Vince, even
13 when we fix the problem she still needs to
14 state it again.

15 MS. McCARTY: Well, some people it
16 just takes a while, you know. I'm not talking
17 about me.

18 MS. FOY: Eric, is she saying that
19 because she needs to reiterate herself, or is
20 she saying that because she just doesn't think
21 you're getting it?

22 MS. McCARTY: That's what I'm

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1 thinking. I'm a former school teacher. You
2 say it four times.

3 CHAIRMAN SCHWAAB: Look, I have no
4 pride of authorship here. I welcome
5 alternative authors.

6 MR. RANDY FISHER: It started up
7 here you don't have any pride -- no.

8 MS. McCARTY: And you also have to
9 be not shy.

10 CHAIRMAN SCHWAAB: All right. So
11 we'll fix that. Can we move onto
12 implementation issues?

13 So this first one, it basically
14 says you're going to spend the money the way
15 you said you were going to spend it.

16 MR. O'SHEA: Eric, on the first
17 paragraph, that last sentence, the fisheries,
18 I'm drawing a blank on that. Is that the
19 Agency?

20 CHAIRMAN SCHWAAB: Well, again, and
21 some of this language is sort of left over
22 from collection of ideas that came out. I

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1 mean it might be that we don't need that in
2 the final.

3 MR. O'SHEA: No, I'm just
4 wondering, I don't know what that word means,
5 that's all.

6 CHAIRMAN SCHWAAB: Which one?

7 MR. O'SHEA: "However, it appears
8 fisheries could rebuild and overcapitalize
9 fishery if they want."

10 CHAIRMAN SCHWAAB: Oh. Yeah, I
11 don't know. It's just an editorial.

12 MR. O'SHEA: Might take that
13 sentence out.

14 CHAIRMAN SCHWAAB: Let's take it
15 out.

16 MS. McCARTY: That's a relic.

17 MS. LOWMAN: It doesn't do
18 anything.

19 CHAIRMAN SCHWAAB: We'll just take
20 it out.

21 MR. RAUCH: Okay.

22 MS. McCARTY: Because it sounds

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1 like sour grapes.

2 CHAIRMAN SCHWAAB: All right. And
3 then the next one is something -- we had some
4 discussion in the Group about looking at other
5 types of assistance that are available. And
6 there was some discussion of coordinating with
7 other, and I just pulled that out into a
8 recommendation, relating to coordination with
9 other federal or local relief programs.

10 MS. McCARTY: I like the mention of
11 the *Exxon Valdez*.

12 CHAIRMAN SCHWAAB: I'm sorry?

13 MS. McCARTY: I like the mention of
14 *Exxon Valdez*. Where did that come from?

15 MS. FOY: I didn't do it, Heather.
16 I don't know.

17 MS. McCARTY: I thought you did
18 that.

19 MS. FOY: I know you thought I did.

20 MR. O'SHEA: Oh, I did. I was the
21 guy that did that.

22 CHAIRMAN SCHWAAB: Oh, no.

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1 MR. O'SHEA: The OPA 90 thing
2 created a revolving fund to respond to oil
3 spills.

4 MR. RANDY FISHER: That's right.

5 MS. McCARTY: A great example.

6 CHAIRMAN SCHWAAB: Okay. So that's
7 the third recommendation, which probably is a
8 pretty big lift, but I think there was a
9 pretty strong feeling that something like that
10 would be desirable.

11 MS. McCARTY: The Standing Disaster
12 Fund.

13 CHAIRMAN SCHWAAB: Yeah.

14 MS. FELLER: Yeah.

15 MS. McCARTY: It works, doesn't it,
16 Vince?

17 MR. SIMPSON: Will it be in very
18 prescribed, tight restrictions on what you can
19 do, but it's already there and it can be done
20 very fast. It won't necessarily do all of it.
21 It will just do part.

22 MS. McCARTY: It's a great idea.

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1 CHAIRMAN SCHWAAB: And then there
2 was I think a pretty strong opinion that we
3 ought to recommend removal of all matching
4 fund conditions.

5 MR. RAUCH: In my view that would
6 encourage them to actually use the Magnuson
7 Act process rather than to do the separate
8 appropriations, because that's the main reason
9 that they go outside the process, it's because
10 every time they want -- I don't --

11 MS. LOWMAN: Oh, because you can't
12 do the --

13 MR. RAUCH: I don't believe that
14 they've ever actually required matching funds.

15 MR. SIMPSON: They have. I argue
16 against it when they institute it. This goes
17 back to the old 88309 program. The only thing
18 we ever did was oysters back in those days.
19 And there was no matching. And, I don't know,
20 when Virginia Van Sickle was the head of
21 Louisiana Wildlife and Fisheries, whatever
22 year that was, they had an amendment and put

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1 matching funds into the then
2 Interjurisdictional Fisheries Act, and I said,
3 oh, that's the absolute worst time to do it,
4 in a disaster.

5 But, anyway, and then subsequent to
6 then I think they've taken it back out, so
7 it's kind of in and out, in and out. And then
8 they can do, like you said, they can make an
9 exception. And there's no matching fund.

10 CHAIRMAN SCHWAAB: Okay.

11 MR. SIMPSON: But when you're
12 dealing with a state program and you've got
13 \$127 million, that's kind of hard for a state
14 to come up with after a hurricane like
15 Katrina. You see what I'm saying? It becomes
16 very problematic, matching funds would. Now
17 we didn't have to do it, but you can see where
18 that would be a very big problem.

19 CHAIRMAN SCHWAAB: Okay.
20 Allocation criteria. There were a series of
21 questions raised about what governs the
22 ultimate use of funds. And essentially, again

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1 sort of harkening back to this, here's the
2 application that says this is what we plan to
3 do, and that becomes the guiding document.
4 Again, and maybe this is redundant, it says
5 spend the funds the way you said they would be
6 spent in the grant application.

7 And then there was a broader
8 discussion about this issue of lump-sum
9 appropriations and whether we need a
10 recommendation to NOAA that they develop some
11 system for allocating lump-sum appropriations
12 amongst multiple disaster declarations. I
13 don't know what that would look like, but
14 right now it's again something that's driven
15 by political weight, not by the size of the
16 disaster.

17 MS. McCARTY: We may never be able
18 to tackle that.

19 CHAIRMAN SCHWAAB: It doesn't say
20 we can't ask them to.

21 Again, I don't think that we're --
22 the way I view this is what we're saying to

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1 NOAA is: Something needs to be done in a way
2 that gives them the cover to do what they know
3 they need to do but that they can't do on
4 their own.

5 MS. McCARTY: No, it's good. It's
6 good.

7 CHAIRMAN SCHWAAB: All right. Then
8 moving right along to accountability.

9 MR. O'SHEA: So even if --

10 CHAIRMAN SCHWAAB: Go ahead.

11 MR. O'SHEA: -- the senator from
12 Maryland gets all the money but Virginia's the
13 one that gave up all the fishing, --

14 CHAIRMAN SCHWAAB: Hypothetically.

15 MR. O'SHEA: -- it would go to
16 Virginia. That's your plan.

17 (Laughter.)

18 CHAIRMAN SCHWAAB: Not that that
19 would ever happen.

20 MR. JONER: We'll never run out of
21 salmon disasters, so the money will never get
22 there.

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1 CHAIRMAN SCHWAAB: Okay. Alright.

2 And then in accountability, there are
3 essentially two recommendations. One deals
4 with an evaluation that should be conducted at
5 the program level, which is essentially asking
6 NOAA to do that. And then a second or perhaps
7 the first level, which is that there be a
8 requirement for some evaluation and report at
9 the disaster level at the end of -- or, you
10 know.

11 And then there's a last piece in
12 here which I can't remember where it came
13 from, that there be some allocation of -- some
14 portion of those funds that should be
15 allocated to allow this evaluation to occur.

16 MR. MARTIN FISHER: Don't look at
17 me.

18 CHAIRMAN SCHWAAB: All right. So
19 that's where we are.

20 What have we left out?

21 Since it's 5:01.

22 MS. McCARTY: It's really good.

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1 CHAIRMAN SCHWAAB: Huh?

2 MS. McCARTY: It's really good.

3 CHAIRMAN SCHWAAB: So I think what
4 my goal would be, again to reiterate, that we
5 sort of capture just these recommendations
6 pretty explicitly for the presentation on
7 Thursday. That we recognize there's probably
8 some editorial work that needs to take place
9 in this document.

10 MR. RAUCH: Can I ask one question,

11 --

12 CHAIRMAN SCHWAAB: Yes.

13 MR. RAUCH: -- because -- and maybe
14 I missed it because I didn't look at this
15 beforehand. A big political question going on
16 right now with our disaster rule is whether or
17 not you can fund disasters caused by
18 overfishing or the fishing regulations
19 themselves. And I did -- and maybe I missed
20 it, but I didn't see a recommendation on that.

21 CHAIRMAN SCHWAAB: I think our
22 basic assumption was that you can't now. And

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1 I don't think there was any energy on the
2 Committee to change that.

3 MR. WALLACE: We actually discussed
4 that and there was, I think, a consensus that
5 that's not what a disaster -- that's not a
6 natural disaster. That's a regulatory
7 function and that's something entirely
8 different.

9 Now if the Agency or Congress want
10 to change that, that's one thing. In the New
11 England groundfish, two weeks ago you came up
12 with \$16 million and called it a disaster fund
13 and just did it.

14 MR. RAUCH: We called it -- no, we
15 did not call it a disaster fund.

16 MR. WALLACE: Well, okay, whatever
17 you did. But, anyhow, there was -- it came
18 out of nowhere of course. And I guess it was
19 well received by the recipient.

20 (Laughter.)

21 MR. WALLACE: But I'm like Eric in
22 that I believe that what this Committee is

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1 trying to do is to come up with a group of
2 criteria that helps you answer these questions
3 when Louisiana says they have a -- the Gulf
4 Coast says they have a disaster, Larry and his
5 folks put in \$10 million, Congress
6 appropriates \$100 million and gives it to NOAA
7 to distribute, and then you need to have some
8 priority on how to do that.

9 And from my perspective we surely
10 want to avoid as much as possible Congress
11 dictating what happens, but that's never going
12 to happen. They are going to be cut projects
13 for every senator and a lot of powerful
14 congressmen. And so those come down the road,
15 you don't have a lot of choice.

16 So that's the reason that I think
17 that this is a constructive exercise and
18 recognizing all the restraints from the
19 exterior that gets encompassed in this.

20 MR. RAUCH: Well, so but on that
21 point about sort of the regulatory causes of a
22 disaster, I mean it's in our proposed rule

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1 that it is not compensable, but --

2 MR. MARTIN FISHER: But the MSA
3 says that it is. The MSRA says it is.

4 MR. RAUCH: It is debatable whether
5 it says that it is or not. We have
6 interpreted the MSRA to say that it doesn't
7 because we have found that the MSRA was
8 ambiguous and so we have put that
9 interpretation on it. But if this Committee
10 simply had a view on that, one way or the
11 other, whether it should or not, that would
12 help us in finalizing our view on that.

13 MR. RANDY FISHER: Well, I think --

14 MR. RAUCH: I think it is
15 necessarily solidified that it is not
16 compensable.

17 MR. RANDY FISHER: Well, I think
18 our view here was that it shouldn't be paid.

19 MR. RAUCH: Well, that would be a
20 helpful view.

21 CHAIRMAN SCHWAAB: So the thought
22 is we would add a recommendation that you

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1 essentially cannot create your own disaster
2 through fishery regulation.

3 MR. RAUCH: Or overfishing. I mean
4 it is either --

5 CHAIRMAN SCHWAAB: Right, right,
6 right,

7 MR. RAUCH: -- overfishing or
8 regulation.

9 MR. MARTIN FISHER: There are the
10 doers and being undone too.

11 MR. SIMPSON: Right. And that
12 doesn't mean that the ones that get gored are
13 the ones that ran up to the bull.

14 MR. RANDY FISHER: Well, that's
15 clear.

16 CHAIRMAN SCHWAAB: Is that related
17 to that high-risk behavior.

18 (Laughter.)

19 MR. RANDY FISHER: Is that
20 southern? I've never heard that out of a
21 southern?

22 MR. SIMPSON: I personally don't

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1 think we ought to do it, but there is a
2 Florida recommendation to declare a disaster
3 because of the turtle interaction with the
4 long-liners. Now the long-liners didn't do
5 that.

6 MR. MARTIN FISHER: The long-liners
7 didn't do that?

8 MR. SIMPSON: Well, I mean didn't
9 -- they didn't -- let me back out of that. I
10 don't think that's the situation --

11 (Laughter.)

12 CHAIRMAN SCHWAAB: But that's not
13 necessarily that different from, for example,
14 the West Coast declarations associated with
15 MPAs, right?

16 MS. McCARTY: It was an overfished
17 thing, so --

18 MR. RANDY FISHER: But there hasn't
19 been a declaration resolved in an MPA. I mean
20 a disaster, you may call a disaster in the
21 Hawaiian Islands because of the Monument.
22 They did that because 26 people lost --

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1 MR. WALLACE: You know that's a
2 very interesting point, Eric, because NOS in
3 theory doesn't create -- doesn't have any
4 regulatory authority, but if there is an MPA
5 or one of those other sanctuaries created by
6 Congress that could be a no-take zone, that is
7 not a part of NMFS regulatory authority.
8 That's imposed by another agency, another
9 portion of NOAA, and that may then be part --

10 CHAIRMAN SCHWAAB: So the
11 recommendation we want to make is specific to
12 overfishing or fishery regulation and
13 basically --

14 MR. WALLACE: Based on council --

15 CHAIRMAN SCHWAAB: Yeah.

16 MR. WALLACE: -- council --

17 CHAIRMAN SCHWAAB: You can't
18 essentially create --

19 MR. WALLACE: Managed fisheries.

20 CHAIRMAN SCHWAAB: -- your own
21 disaster through overfishing or through a
22 regulatory decision specific to the fishery.

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1 MS. McCARTY: Well, that's their
2 position there in New England, it's being
3 overfished, it's an overfished fishery. They
4 don't get disaster money, --

5 CHAIRMAN SCHWAAB: Right.

6 MS. McCARTY: -- is that what
7 you're saying?

8 CHAIRMAN SCHWAAB: Right.

9 MS. McCARTY: Okay.

10 MR. RANDY FISHER: That's what
11 we're saying.

12 MS. McCARTY: Okay.

13 MR. SIMPSON: Is that what you want
14 to say is you agree with the NMFS proposed
15 rule as far as this discussion is concerned.

16 MR. MARTIN FISHER: But that leaves
17 NMFS off the hook, no offense.

18 (Laughter.)

19 MR. MARTIN FISHER: Ultimately --

20 MR. RANDY FISHER: Didn't you get
21 the one about the bull?

22 MR. MARTIN FISHER: Ultimately --

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1 now hang on, guys. If the good people at the
2 Science Center and the good people in
3 administration at NMFS made some decisions on
4 some data that wasn't -- that didn't coincide
5 with the natural world and everything thought
6 there were more fish than there were and all
7 of a sudden the fishery collapsed and all of
8 the while NMFS has been putting out fisheries
9 management that says go ahead fish, fish,
10 fish, and then all of a sudden, boom, the
11 stock collapses and now that is a disaster
12 that the fishermen did not create, because
13 they were complying with the law.

14 And the culpability is, I'm sorry,
15 in the hands of the government at that point.

16 And to interpret that little line in the MSRA
17 and say, well, we can wash our hands from this
18 because this doesn't apply, I don't know. It
19 seems like that needs a little further study.

20 MR. WALLACE: Well, let me muddy
21 that --

22 MR. MARTIN FISHER: Let's hear from

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1 Heather.

2 MR. WALLACE: No, let me muddy that
3 water a little bit. What about ecological
4 changes that cause the fisheries disaster with
5 the fishery under management and we haven't
6 probably seen many of those so far. But
7 there's a good chance that at least on the
8 Atlantic Coast we may well see those in the
9 near future. And surely our presentation on
10 salmon today said the nutrient level went down
11 and the currents changed and the water warmed
12 up and the forage fish for the salmon went
13 awry and all the salmon starved to death, the
14 --

15 MR. SIMPSON: That's a natural,
16 biological disaster.

17 CHAIRMAN SCHWAAB: See, I don't
18 think there's any question that some kind of
19 an ecological disaster is eligible. At least
20 --

21 MR. WALLACE: Okay. Well, then --
22 then you have to separate them between those

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1 from the regulatory authority and how the
2 fishery is managed. And maybe that's
3 splitting hairs.

4 CHAIRMAN SCHWAAB: Well, I'm not
5 sure it's splitting hairs at all. I think
6 they're pretty different things.

7 MR. SIMPSON: Your example is --

8 CHAIRMAN SCHWAAB: I think the
9 question is, going back to Martin's point, so
10 somebody says there's a bunch of fish there
11 and all of a sudden we realize there weren't a
12 bunch of fish there, well, where did the fish
13 go.

14 MR. MARTIN FISHER: And why -- why
15 --

16 CHAIRMAN SCHWAAB: And is that --

17 MR. MARTIN FISHER: -- did anybody
18 think they were there, to begin with. And
19 we're having that situation develop right now
20 --

21 CHAIRMAN SCHWAAB: And that's not a
22 situation that was created by overfishing or

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1 by the fishermen. That's a situation created
2 --

3 MR. MARTIN FISHER: By the
4 regulatory process.

5 CHAIRMAN SCHWAAB: No.

6 MR. JONER: Not necessarily.

7 CHAIRMAN SCHWAAB: By bad -- you
8 know, --

9 MS. LOWMAN: It could be --

10 MS. FELLER: That's --

11 CHAIRMAN SCHWAAB: Martin, one of
12 two things could have happened there. Either
13 there was an error in science or maybe
14 something really did happen, it's just then
15 apparent what happened.

16 MR. MARTIN FISHER: You're right,
17 but in either case the regulatory action is
18 going to put the fishermen out of business and
19 there should be some protection for the
20 fishermen in that scenario.

21 MR. WALLACE: I think that you --

22 CHAIRMAN SCHWAAB: I don't think

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1 there's any disagreement on that point.

2 MR. WALLACE: -- would be covered
3 under -- like the salmon scenario that --

4 MR. MARTIN FISHER: Well, if not
5 you redefine that blurb in the MSRA, because
6 it could be the regulatory action that
7 actually puts the fishermen out of business,
8 which becomes the disaster.

9 MR. RAUCH: Recall part of this is
10 not -- you don't have to -- for the purposes
11 of this you don't have to accept the MSRA as
12 written. I mean we're interested in your
13 ideas of how it should work.

14 MR. MARTIN FISHER: Okay.

15 MR. RAUCH: And if the answer is to
16 change the definition, then that's a good
17 recommendation and we'll take that under -- so
18 --

19 MR. MARTIN FISHER: Well, I'm not
20 sure there's consensus on the Committee to do
21 that.

22 MR. RAUCH: Well, and I'm not

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1 trying to force you to decide one way or the
2 other. But we are interested in your views on
3 how we have interpreted that, whether that's
4 the right policy outcome we should have, and
5 you guys can decide whether that's true or
6 not, if that's how it will play.

7 MR. MARTIN FISHER: So does that
8 create a stumbling point for the document or
9 the presentation?

10 CHAIRMAN SCHWAAB: It's just a
11 question of whether we have a recommendation
12 on that point or not, and I'm not sure whether
13 we...

14 MR. SIMPSON: Maybe the Committee
15 when they address it can decide.

16 CHAIRMAN SCHWAAB: Well, why don't
17 we draft --

18 MS. FOY: Couldn't you just solve
19 it by saying that --

20 CHAIRMAN SCHWAAB: Why don't we put
21 something in draft and hold it out there for
22 further discussion?

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1 MS. McCARTY: Yeah, because the
2 whole Committee's going to have to discuss it
3 anyway.

4 CHAIRMAN SCHWAAB: Yeah. Okay.

5 MS. McCARTY: Then we could all --

6 CHAIRMAN SCHWAAB: Since half the
7 Committee is ready to leave.

8 MS. McCARTY: They look like it.

9 CHAIRMAN SCHWAAB: Jessica, can you
10 just clean this up? You know eliminate all
11 the track changes and circulate it back to the
12 Work Group?

13 MS. DUTTON: Sure.

14 CHAIRMAN SCHWAAB: And then what
15 I'll do is also -- would you also do me a
16 favor and just pull out a version that's just
17 got the list of recommendations?

18 MS. DUTTON: Sure.

19 CHAIRMAN SCHWAAB: And we'll use
20 that to talk from on Thursday. And then we'll
21 probably take a little more time just to kind
22 of tidy this document up.

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1 MS. McCARTY: Why don't we keep the
2 track changes for the moment so that people
3 here can see what was changed today?

4 CHAIRMAN SCHWAAB: Will you send it
5 to us both ways?

6 MS. McCARTY: Yeah, both ways is
7 good.

8 MS. DUTTON: This way and a
9 cleaned-up version?

10 CHAIRMAN SCHWAAB: Yeah.

11 MS. DUTTON: Sure.

12 MS. FOY: We already have it this
13 way, right? She emailed us --

14 MS. McCARTY: Except she's made
15 additional changes.

16 CHAIRMAN SCHWAAB: She's made a
17 couple.

18 MS. McCARTY: I hope.

19 CHAIRMAN SCHWAAB: All right.
20 Well, I think we're close on --

21 MS. McCARTY: Otherwise I'm going
22 to start over.

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1 CHAIRMAN SCHWAAB: I think we're
2 close on some pretty decent recommendations.

3 Thank you, all.

4 (The Work Group meeting was
5 adjourned at 5:14 p.m.)
6

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