

U.S. DEPARTMENT OF COMMERCE

+ + + + +

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
MARINE FISHERIES ADVISORY COMMITTEE

+ + + + +

COMMITTEE MEETING

+ + + + +

TUESDAY, JUNE 7, 2005

The meeting came to order at 9:00 a.m. in the Georgian Room of the Phoenix Park Hotel, 520 North Capital St, NW, Washington, DC. Vice Admiral Lautenbacher, Chairman, presiding.

PRESENT:

VICE ADM. CONRAD LAUTENBACHER	Chairman
DR. WILLIAM HOGARTH	Vice Chairman
LAUREL BRYANT	Designated Federal Official
TOM BILLY	Member
JAMES COOK	Member
CAPTAIN ANTHONY DiLERNIA	Member
CHRIS DORSETT	Member
ROBERT FLETCHER	Member
JOHN FORSTER	Member
JIM GILMORE	Member
DONALD KENT	Member
ROB KRAMER	Member
PETER P. LEIPZIG	Member
MELVIN MOON, JR.	Member
ALVIN OSTERBACK	Member
RALPH RAYBURN	Member
MAGGIE RAYMOND	Member
DR. KENNETH ROBERTS	Member
ERIC SCHWAAB	Member
KATE WYNNE	Member
RANDY FISHER	Consultant
CAPTAIN JOHN VINCENT O'SHEA	Consultant

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

I-N-D-E-X

General Session: Welcome Remarks and Updates 3
 Vice Admiral Lautenbacher
 Dr. Hogarth

Magnuson-Stevens Act Reauthorization 102
 Jack Dunnigan

Ecosystem Approach to Management 172
 Guideline Development
 Steve Murawski

Strengthening Science in Management 240
 Steve Murawski

Adjourn

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

2 9:16 a.m.

3 CHAIRMAN LAUTENBACHER: Good morning,
4 everyone.

5 MS. PARTICIPANT: Good morning.

6 CHAIRMAN LAUTENBACHER: It's a pleasure to
7 be with you today. I hope everybody else is feeling
8 good and ready for a big, productive day here in
9 Washington. In fact, it's summer, so you can enjoy
10 the hot weather outside, but it's nice in here.

11 Thank you all for coming and being part of
12 the MFAC process. This is an important week because
13 it's the Capitol Hill Oceans Week. It's been going on
14 for five years now and it's a good time to be here, to
15 be able to go back and forth to the Hill and talk to
16 the kinds of folks that we need to help us with our
17 issues.

18 I'm hoping there's enough time left for
19 you to do that from the beginning of this meeting
20 until the end of it.

21 The big event that Bill and I have today
22 is a rollout of the aquaculture bill. I think you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 all familiar with that. If not, then we can talk
2 about that more. There will be a number of briefings
3 for people on the Hill and we're going on a full court
4 press to try to introduce it in such a way that we can
5 bring everybody along without creating enemies before
6 we even start, so this will be an interesting week to
7 see how this goes.

8 Before we get started, perhaps we could
9 just go around and make introductions so we can see
10 who's in the room and re-introduce ourselves.
11 Rebecca, do you want to start?

12 MS. LENT: Good morning, everyone. My
13 name is Rebecca Lent. I'm head of the Corps
14 Regulatory Programs.

15 MS. WYNNE: Good morning, I'm Kate Wynne
16 from the University of Alaska Sea Grant Program.

17 MR. FORSTER: I'm John Forster from the
18 Agriculture Industry in Washington State.

19 MR. KENT: Don Kent from Hubbs-Sea World
20 Research Institute.

21 MR. SCHWAAB: Eric Schwaab, International
22 Association of Fish and Wildlife Agencies.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 DR. ROBERTS: Ken Roberts, Louisiana State
2 University.

3 MR. LEIPZIG: Pete Leipzig from
4 Fishermen's Marketing Association.

5 MR. FISHER: Randy Fisher, Pacific State
6 Marine Fisheries Commission.

7 CAPT. O'SHEA: Good morning. Vince
8 O'Shea, Atlantic States Marine Fisheries Commission.

9 MR. KRAMER: I'm Rob Kramer with
10 International Game Fish Association.

11 MR. FLETCHER: Good morning. I'm Bob
12 Fletcher with the Sports Fishing Association of
13 California.

14 MR. DORSETT: Chris Dorsett of the Ocean
15 Conservaty.

16 MR. COOK: Hi, I'm Jim Cook with the
17 Pacific Ocean Producers. I recently moved to
18 California to be closer to the ocean.

19 MR. BILLY: Tom Billy, International Food
20 Safety Consultant.

21 MR. OSTERBACK: Alvin Osterback. I'm a
22 commercial fisherman and also the Port Director of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 number-one fishing port in the United States.

2 MS. CASTANZA: I'm Jen Castanza. I'm on
3 Admiral Lautenbacher's staff.

4 VICE CHAIRMAN HOGARTH: I'm Dale Hogarth.
5 (Audience Introductions)

6 CHAIRMAN LAUTENBACHER: All right.
7 Welcome, everybody. We're glad to have you here. We
8 have a few folks who couldn't make it this morning and
9 people who were held hostage on flights.

10 I had the same problem yesterday getting
11 here from Maine. The whole Eastern seaboard was shut
12 down for a while because of the line of thunderstorms
13 that went through. I know some of you probably got
14 caught in that as well.

15 We have for the morning agenda -
16 basically, it's a general session. I want to talk to
17 you a little bit and Bill's got some things to talk
18 about and it's kind of a scene-setter for the specific
19 topics.

20 This afternoon, you'll have some very
21 detailed and up-to-date progress reports on the
22 Magnuson-Stevens reorganization, the Ocean Action

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Plan, the items that we're working on. That's the
2 response of the President to the Ocean Policy
3 Commission Report.

4 Ecosystem approach to management, which
5 I'm going to talk a little bit about, but you'll get
6 Steve Murawski to talk to you in detail about where we
7 stand. Also, strengthening science in management,
8 which I think is an important issue and I want to
9 mention some of that this morning as well.

10 I think that's - we're ready to start,
11 then. Okay? Let me go - I, along with the staff, put
12 together a few slides and I want to talk to you about
13 several issues.

14 I would like to make this an interactive
15 session, so stop me if there's something you don't
16 understand. I would rather not be broadcasting. This
17 should be a discussion and not a monologue, so please
18 stop me if there are things that don't jive or I'm not
19 making sense or you have some questions.

20 Okay. This is what we did in January and
21 it's just a rehash of what I talked to you about. I
22 talked to you about where we are with our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 organizational structure, the Ocean Action Plan, and
2 we're going to continue with these things, the
3 ecosystems approaches to management, earth
4 observations and fisheries, and aquaculture.

5 We went through each of those things. I'm
6 going to touch on some of those again this time, but
7 Bill and I have discussed ways in which MFAC can help
8 the industry, help conservation, and help us build
9 sustainable fisheries for the future.

10 One of the major things, and it's always
11 been a hobby horse of mine, is trying to build
12 consensus across the various constituencies that our
13 customers -- and as far as I'm concerned, that's the
14 whole American public, is a constituency -- of having
15 sustainable fisheries, to try to work on ways that we
16 can build consensus across the industry, across our
17 conservation groups, across our NGOs, and government
18 and regional authorities.

19 I'm going to talk to you about these
20 things the next - let's see, that's January, let's
21 move on there.

22 I want to talk to you about these things

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in terms of a little bit more detail and get into it
2 in more depth than we did in January and we've gone a
3 little bit further, so there's more to talk about, and
4 then the applications to sustainable fisheries and our
5 ability to build consensus, which you see at the end.

6 That's the agenda. That's where we're
7 trying to go. Ideas that you have along the way,
8 please throw them on the table. I'm going to go back
9 over ecosystems, because I was listening - I was up in
10 Maine yesterday listening to people talk about
11 ecosystems.

12 I'm trying to get a definition that
13 everybody will agree to, because we've got to agree to
14 a definition. We need consensus in what an ecosystem
15 is and then what an ecosystem approach to management
16 is. We need consensus, because you've got to start
17 with definitions.

18 We cannot argue or debate something
19 without having a firm taxonomy and understanding of
20 definitions. That's the first thing we need to work
21 with.

22 If we think you all have issues, we should

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 talk about ways to refine it, but I want to go through
2 our definition in a little bit more detail with you so
3 that maybe that helps us with understanding, because I
4 listened to people talk yesterday, including
5 Congressman Allen, and I don't think people understand
6 what this is, necessarily, or what it means to us.

7 Congressman Allen is a good friend. He's
8 a big supporter of fisheries and a supporter of
9 conservation and he is a Chairman of the Ocean Caucus
10 in the House, so he's an important member. I listened
11 to him talk and I think we have some work to do.

12 Okay. The ecosystem has to be
13 geographically defined. You can't deal with it unless
14 you have some geographic boundaries. You've got to
15 pick a point. Admittedly, there's no good point in
16 many cases to decide where one ecosystem ends and
17 another begins, but we have to work on that. That's
18 important.

19 It's a specified system of organisms. It
20 includes humans. Humans are part of the ecosystem
21 everywhere we go. We have learned how to live at the
22 North Pole and we have learned how to live at the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 South Pole. I just came back from Point Barrow and
2 people are very happy living up there, so human beings
3 are everywhere.

4 They're part of the ecosystem and we have
5 to deal with that in some realistic way. We are part
6 of the structure, the environment, and the processes
7 that control the dynamics of this system we're looking
8 at. It's a very simple concept, really, but it's hard
9 to - the difficulty comes in giving the specifics of
10 what it is we're talking about.

11 When we talk about an ecosystem approach
12 to management, it's even harder. Adaptive,
13 regionally-directed. It takes account of ecosystem
14 knowledge. It takes account of uncertainty.

15 It considers multiple external influences,
16 strive to balance diverse societal objectives. Those
17 are the six tenets that we have put into our
18 definition of approach to management. I want to go
19 through each one of them a little bit.

20 Adaptive. Adaptive means simply that when
21 we gain new information, we bring it into the process
22 and use it to our benefit, to productivity, to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 conservation, to improving our ability to manage
2 resources.

3 This is an interesting chart because the
4 staff did this one for me and I didn't see it until
5 after it was drawn, but quite frankly, for those of
6 you that have been in the military, this is just an
7 oodle loop planning cycle.

8 This is the way you plan operations. If
9 you want to get ahead of the competitor, you've got to
10 observe and you've got to analyze and then you've got
11 to decide, then you've got to act, then you've got to
12 observe again, and then you've got to analyze, then
13 you decide and you act and you keep working this.
14 That's how you get ahead of the enemy.

15 We won't define who the enemy is. The
16 enemy is us sometimes in this process. The objective
17 here, when you say adaptive, is it means that you've
18 got your eyes and your ears open and you're open to
19 new data and you're looking at it and you're going to
20 bring it in. You go through a process that allows you
21 to do this in a fair way so that everybody has a shot
22 at it before you change the policy.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Then you observe it and you implement it
2 and you start monitoring and you look at it and you
3 see what's going and you go around in this cycle.

4 Adaptive doesn't mean willy-nilly changes
5 anytime somebody wants to jump in and say, just change
6 this because I found a new factor over here. It's an
7 orderly process. When we talk about adaptive, we're
8 going to have to work on what that orderly process is
9 as we change things.

10 That goes for our fisheries councils and
11 our ability to set up ecosystem structures, which we
12 can talk about in a few minutes.

13 I want you to think about this as sort of
14 planning a military campaign, almost, because this is
15 kind of what this is and it has to be done with
16 everybody in it and everybody participating in it
17 understanding of the steps and what's going on.

18 Otherwise, we're going to lose people and
19 we're going to have a lot of critics along the way.

20 VICE CHAIRMAN HOGARTH: Admiral, could I
21 just add something?

22 CHAIRMAN LAUTENBACHER: Yes, yes, jump in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there. Please, any --

2 VICE CHAIRMAN HOGARTH: Just because
3 yesterday, I spent the afternoon at this symposium of
4 the Ocean Action Plan. It was obvious listening to
5 that - they spent a lot of time on ecosystems - that
6 everyone that spoke had a definition.

7 We really haven't gotten this tied down
8 yet, because, I mean, it was a - Fish and Wildlife was
9 there, EPA was there, I mean, just a whole different
10 group of - everyone that talked about ecosystems would
11 talk about it in a different perspective and then a
12 different - in my opinion, different agenda as to
13 moving forward.

14 We've got a lot to do and that's something
15 I hope this group can help us focus a little bit is to
16 how do we get the message out and the definition out
17 and get some consensus here because unless we can get
18 that, we're failing from the beginning.

19 CHAIRMAN LAUTENBACHER: Part of the
20 problem, as Bill brought up, is the other agencies. I
21 mean, there's an issue, other - we talked about
22 Interior and the agencies in Interior and Agriculture

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and the EPA and other parts of the government that we
2 have to work with. That's an issue. We have problems
3 with that.

4 Another issue on that, and I think I
5 mentioned it last time, as soon as you say the word
6 ecosystem, people automatically assume that's some
7 left-wing green plot, and it's not. It's not. It is
8 a description of how we live.

9 I mean, I wish there were a different word
10 that we could use that wouldn't be so flammable in
11 conversations, but it - I don't know what it is. If
12 we could think of something, then we should. Yes,
13 sir?

14 MR. BILLY: In the previous slide, the
15 planning and operations cycle, at least in my
16 experience over the years, relatively few people can
17 get their arms around something that abstract. There
18 are a lot of people that are very focused on one
19 component of that cycle.

20 CHAIRMAN LAUTENBACHER: Yes. There are.
21 You're right.

22 MR. BILLY: It's got to be true in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 military, as well, the same thing. What that
2 immediately makes me think of is, do you have - are
3 you working with a strawman example - pick something
4 and have the discussion around, this is what mean.
5 This is an ecosystem. This is what we mean by
6 adaptation. This is what we mean by - and let the
7 discussion revolve around that, rather than in the
8 abstract?

9 CHAIRMAN LAUTENBACHER: No, I think that's
10 a good idea and we need to do that. I would ask Steve
11 that question this afternoon and ask him to put some
12 meat on it, because we can. I'm sure that we can.
13 I'm sure that we can provide some examples.

14 MR. BILLY: It doesn't matter what it
15 is. It doesn't even have to be the ocean, for that
16 matter. As long as you can get your arm around what
17 you're talking about in their terms that they deal
18 with, they can deal with, from their experience and so
19 forth. This is too abstract.

20 CHAIRMAN LAUTENBACHER: Too
21 abstract. Okay. All right. I hear you.

22 MS. KATSOROUS: Admiral, my research has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 shown that we have no ecosystem management, that we
2 know ecosystems, but we do not manage them. What we
3 try to do is preserve them and the identification of
4 what was in that ecosystem was for that reason.

5 I would be pleased if somebody could find
6 an example of ecosystem management being used
7 terrestrially, because at least that would let us see
8 how it's done. I was unable and I've been looking at
9 this issue for several years, to find any such
10 example.

11 CHAIRMAN LAUTENBACHER: Yes, Mary, it's
12 hard for me to believe, but I know that - and I hadn't
13 looked at it, but we can come up with examples. I
14 used them in the last meeting. There are examples
15 where we are doing ecosystem approaches to management.

16 You could argue how complete they are or what the
17 coverage is, but they are ecosystem approaches.

18 I know that Fish and Wildlife and the
19 other groups have been reluctant to jump on. I can't
20 believe that we couldn't find something where they -
21 because you just can't exist in this world without
22 knowing environmental factors and using them in making

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 a decision.

2 I bet we can find something. They may not
3 call it ecosystem-based management, but I bet it is,
4 because it's the start of it. Yes, sir?

5 MR. LEIPZIG: In our earlier discussions
6 at this meeting, we've made a distinction between
7 ecosystem management and ecosystem-based management or
8 ecosystem.

9 CHAIRMAN LAUTENBACHER: Right. We're not
10 managing them --

11 MR. LEIPZIG: Mary used the reference to
12 manage the ecosystem, and I just hope we're still on
13 the same page.

14 CHAIRMAN LAUTENBACHER: We are, we are.
15 We are talking, as I said, about the ecosystem
16 approach to management. We're talking about managing
17 our activities. We're not talking about - we have to
18 figure out how the natural ecosystem works or what it
19 looks like, what the processes are, before we can
20 approach managing our relationship with it.

21 MR. LEIPZIG: I have interpreted that
22 ecosystem-based approach was a process as opposed to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 trying to actually manage the ecosystem.

2 CHAIRMAN LAUTENBACHER: Yes, okay. That's
3 fair. Yes, sir?

4 MR. SCHWAAB: I think that one I would
5 build on. I mean, this isn't an all-or-nothing
6 proposition. I mean, an ecosystem approach to
7 management allows you to do things and takes into
8 account this increasing knowledge.

9 Whether that's multi-species management or
10 whether that's management of habitat implications for
11 a particular species or groups of species, I mean,
12 those are all the ecosystem approaches to management.

13 Looking at terrestrial examples, there are
14 many, many examples of the ecosystem approaches to
15 terrestrial species management ranging from what's
16 going on with sage grass out West to all the grizzly
17 bear work in the Greater Yellowstone ecosystem. I
18 mean, there are - I could go on probably half of the
19 morning on that.

20 CHAIRMAN LAUTENBACHER: Yes, I think
21 that's true.

22 MR. SCHWAAB: I think it's happening in a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lot of aquatic systems, as well.

2 MR. KRAMER: Yes, I think Pete brings up a
3 good point, because if indeed we try to define a
4 specific geographic - come up with a geographic
5 definition for an ecosystem, there may be many that
6 read into that, but that's managing everything within
7 that ecosystem as opposed to approach.

8 CHAIRMAN LAUTENBACHER: Yes, we have to
9 get off the fact that - people think if you're going
10 to ecosystem approaches to management, all of the
11 sudden, in the whole claw, you understand completely
12 everything about the world and its complexities in
13 that area and you just jump from where you are now to
14 this kind of total understanding of how chemistry,
15 biology, physics, meteorology, how it all fits
16 together, and we know a lot and we'll know a lot more,
17 but we don't know it all yet.

18 It's a journey. It's not a destination
19 that we'll immediately arrive at. Kitty, do you want
20 to say something? No?

21 MS. SIMONDS: No, just still thinking
22 about it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN LAUTENBACHER: Okay. All
2 right. Okay. Well, and the geographic thing is -
3 remember the geographic thing can be nested. I mean,
4 there's various sizes.

5 They can be micro-ecosystems and when we
6 start talking about very small microbiology organisms,
7 microorganisms, and deal with - you can have small
8 micro-ecosystems and you can have very large ones.

9 We have directed our approach to looking
10 at the large coast areas and we have had a system
11 called the LME in process that's been defined for
12 quite a while and a lot of work has been done on it.

13 It seems a reasonable place to start on
14 the large scale size. It doesn't mean there aren't
15 smaller ecosystems nested within those areas. My
16 question is if we have to - yes, sir?

17 MR. SCHWAAB: I was just going to - I
18 think you could probably illustrate this challenge
19 more effectively by extending those yellow lines
20 inland and I can't imagine there's a greater influence
21 on, for example, the Gulf of Mexico system than what's
22 going on in that entire Mississippi River.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Granted, I think probably you do a
2 disservice by not extending those lines to take in
3 those terrestrial areas, which would really illustrate
4 a big chunk of what we're talking about here.

5 CHAIRMAN LAUTENBACHER: We've tried to do
6 that and wound up in big trouble with our land-based
7 friends to start with, so we're trying to build a
8 coalition of people who will talk about what those
9 lines look like.

10 We've had difficulty even getting people
11 to talk about those lines. That's a challenge that
12 we're - I couldn't agree more with you.

13 MR. SCHWAAB: You mentioned earlier, the
14 challenge of other agencies and I would submit that
15 that's probably one of the greatest opportunity areas
16 is for some leadership and alignment and coordination
17 amongst the Federal agencies, whether it's the Corps
18 of Engineers, the Fish and Wildlife Service, or the
19 EPA and the kind of influences that they're having on
20 these coastal and marine resources probably even I
21 think argues more strongly for you to depict that
22 challenge in some of these kinds of presentations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN LAUTENBACHER: Well, we do have
2 some charts that have that on there, so I will break
3 out the charts and have our definition of interior
4 boundaries that affect the coast. What is the coastal
5 ecosystem? What does the coastal ecosystem look like?

6 Let me say that we have opportunities to
7 do this within the context of the Committee on Ocean
8 Policy, the Cabinet-level group that the President set
9 up, Jim Connetin talking to the President, the
10 Cabinet-level group, and then the working groups that
11 are formed up underneath that and that's a charge
12 we've given to the folks that - Rebecca's a member of
13 the SEMAR, the operational working group, which is
14 important for us.

15 While we're on that, for a second, let me
16 tell you, an issue here is where does interagency
17 cooperation end and agency management of specific laws
18 and charges that each agency has start? You have this
19 - and this is a process that will take a while to sort
20 out.

21 I am loath to walking into an interagency
22 group of 18 agencies and say, manage fisheries for us.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That's not - Commerce is in charge.

2 Now, if somebody wants to change the law,
3 that's fine, go change the law, but right now, we have
4 the law that we work under and we must deal with that.

5 That's what we're subject to.

6 I don't want to go manage the ruffled
7 grass for the Interior Department or whatever - the
8 grizzly bear or whatever problems they're having. You
9 have this issue of territorial gas pain, so to speak,
10 but how to build a cohesive collaboration at a higher
11 level.

12 We're just starting that. That's my -
13 after 30 years in government or 30 years working in
14 Washington, that's a big issue.

15 MR. SCHWAAB: One more comment on that.

16 CHAIRMAN LAUTENBACHER: Yes, go ahead.
17 It's a very important issue.

18 MR. SCHWAAB: Well, I think one of the
19 things - I mean, a lot of this is knowledge-based. A
20 big part of this is that your agencies have the
21 expertise as to what these aquatic resources,
22 particularly these living room resources, need and one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of the best things that I think that you can do is
2 introduce that information into those decision-making
3 processes, not saying do this or don't do that, but
4 say this is what our fish and our coastal and marine
5 habitats need and anything you can do to help deliver
6 that is appreciated, as a starting point.

7 It's introducing that knowledge into the
8 conversation that could be incredibly important.

9 CHAIRMAN LAUTENBACHER: I agree, and
10 that's certainly well-taken - a good point. Okay.
11 Let's see. Is there a question back there? Yes, sir?

12 MR. DUENAS: You talked about other
13 agencies. How about inside of our own agency? We've
14 been working with the same people on the major issues.

15 Now, when you talk about including humans in the
16 ecosystem, what kind of humans?

17 Are you talking about fishermen? Are you
18 talking about creating a whole new different breed of
19 humans called tourists? In the sanctuary, they want
20 tourists.

21 The Fisheries Council has spent years and
22 years taking care of the Northwest Hawaiian

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Islands. The problem is, you've got a new
2 designation, we're kicked out of the picture, we're
3 asking for an opportunity to perpetuate our fishermen,
4 but it's - we've been managing very well for the last
5 20 years.

6 Now, a new group comes in and they are
7 only looking at tourists. You've got the Fish and
8 Wildlife Service and the sanctuary people will allow a
9 thousand tourists to walk through the Northwest
10 Hawaiian Islands. You've got seven fisheries, ten
11 bottom fisheries. We can't come to a consensus as to
12 who the users are.

13 We promote protecting the fisheries. We
14 promote protecting the environment and managing it
15 properly. To be honest with you, I know that's very
16 frustrating as a council member because we just - we
17 finished a discussion about it.

18 Now we have other things we have to take
19 care of, but because of the new designation, we have
20 to come back and spend a whole year, two years
21 discussing it again and we're forgetting about the
22 other fisheries that are being affected and all of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 sudden, the main Hawaiian Islands are putting
2 overfishing, because they're so busy doing something
3 else that we've already taken care of.

4 That's the frustrating part for me,
5 traveling 4,000 miles for every council meeting,
6 because then I like to put my efforts into very good
7 things, but I want to discuss things that affect
8 everyone, not spend our time fighting for ourselves
9 because we wanted to do this, we've done it for the
10 last ten years.

11 We've protected the Northwest Hawaiian
12 Islands and the fisheries, and yet we're being put in
13 the backseat and saying, it's none of your business
14 and it's our business.

15 We need to discuss what ecotourism is all
16 about, what kind of people you're talking about in the
17 habitat, whether they're 92,000 e-mails that came into
18 the sanctuary people in support from Montana and
19 Colorado and all those other places, or the fishermen
20 that live in Hawaii.

21 They live in a fishery and need that fish
22 to survive in an economy that's very bad. Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRMAN LAUTENBACHER: Thank you. I
2 don't know that I can solve your problem today,
3 okay? I certainly appreciate your comments and I
4 encourage you to keep - let's keep working on the
5 issue. I didn't say human beings were easy. They're
6 just in the system, unfortunately, and we have to deal
7 with them and we certainly have to deal with our
8 consistency within NOAA, too.

9 I don't have any - we have different
10 groups that are responsible for different laws, which
11 were there when I came in. I'm doing my best to try
12 to live with them and I appreciate your patience and
13 willingness to work to try to come to some conclusion
14 on it that makes sense.

15 I do appreciate the conservation efforts
16 of the fishermen and the native culture in that area,
17 in that part of the world, I really do. I think that
18 we should be careful about preserving the best
19 elements of what's there today.

20 We will keep working on it. Please
21 continue to keep your patience and we'll see if we
22 can't work to a conclusion that all of us can be proud

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of. Thank you. Okay, now, let me get off that.

2 The word here was regionally-directed and
3 I like regionally-directed for a few reasons. First
4 of all, ecosystems normally do not match political
5 boundaries. Occasionally they do, because of the way
6 things are set up from just the circumstances, but
7 most of the times, they don't, so you need to think
8 about something bigger than a political boundary,
9 bigger than a city or bigger than a state,
10 necessarily.

11 You need to think about a larger area
12 because of the fact that there are impacts across
13 these political boundaries and so, when you start
14 looking at the LMEs, you get into a larger system that
15 forces us to look at regionally-directed processes.
16 It's also a process that can fit with the fishery
17 management council structure that's set up today.

18 I believe we can make that work. I'm not
19 interested in tinkering with the fishery management
20 structure, okay, and I've said that to you before.
21 I'm not interested in turning them into ecosystem
22 councils. I think they need to be fishery management

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 councils, so I'm not here to talk about that. We need
2 to talk about some other governance mechanism that we
3 participate in when we talk about ecosystems.

4 You need to have these regions, so we need
5 to discuss this. If we can't deal with the ten LMEs
6 as they are or we need to modify them - I mean, I have
7 had people talk to me about the one in Hawaii and the
8 Pacific Islands one as not being a realistic region,
9 so that's certainly open for discussion. But we have
10 to start there.

11 It counts for ecosystem knowledge and
12 uncertainty, okay? Part of that loop that I talked
13 about that you wanted to have more of a definition of
14 talks about bringing knowledge into management.

15 I think we're doing that. I can cite lots
16 of examples from every council where you bring in
17 environmental knowledge into determining what the
18 fishery management plan looks like. You do that.

19 I mean, you get something new, you know
20 where the fish are, where they're not, what the food
21 chain looks like, and various changes because of the
22 currents, because of temperature. You bring that - if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you have good data, you bring it in, because it allows
2 you to do a better job in managing.

3 I think we're doing that all right. The
4 thing I have trouble with is to incorporate
5 uncertainty. That's an area that I have a lot of
6 trouble with.

7 The current buzzword for uncertainty is -
8 well, let's use the precautionary principle. I'm not
9 sure - and of course, I'm treading on sacred ground
10 here, because a lot of folks just love the
11 precautionary principle, but I don't know how to - we
12 get carried away with the precautionary principle.

13 It can tell you not to do anything. It
14 means that you have to - if there's any chance at all
15 that something bad might happen, you want insurance
16 it's not going to happen, so therefore, you don't do
17 anything at all.

18 I like the term risk management because
19 that's a term that makes sense to me and that's
20 something that's used in economics, used in business,
21 used in government, and I think it can be used in the
22 environment and used in conservation matters too.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I think it's something we could all come
2 from both sides towards and argue about the risks and
3 the probabilities and the potential solutions or
4 alleviations of those risks.

5 What are the risks? If you're doing a
6 standing broad jump and you know that you'd really
7 like to be able to jump seven feet and you really want
8 to practice, but right now, you can only jump six feet
9 and nine inches. If you draw two lines on the ground
10 and you start jumping and you miss, there's no
11 penalty, right? You just land short.

12 Now, how about if you say, I'm going to
13 incentivize myself that I'm going to jump something
14 over about a foot deep and see if I can get to that
15 seventh foot. I know really right now, I can go six
16 nine. You might turn an ankle, not too bad. But how
17 about if it's a ten-foot pit? How about if it's
18 1,000-foot pit? Are you going to try to go seven feet
19 when you know you can only do six nine?

20 I mean, it's starting to look at this
21 thing from as definitive - and some of it's going to
22 be subjective. You can't make it all objective.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 There's not numbers you can put to everything, but at
2 least you can start talking about it.

3 Now, this is how safety versus dollars are
4 allocated within industries. This is how we do
5 management in internal military when you start talking
6 about whether an operation is too risky or not and you
7 want to gamble or not.

8 You get down and you start talking about
9 it so you can get something on the table instead of
10 just saying, well, it's a precautionary principle and
11 therefore, we won't do anything because there's a
12 chance that the world might fall apart, whatever that
13 means.

14 I would like to figure out some way to get
15 - and we don't have to use the term risk management if
16 people don't like that, but get back to a specific
17 method of incorporating uncertainty into what we're
18 doing, because we're never going to know everything.
19 We are never going to be able to pin everything down.

20 We're going to know more and more and
21 more, but we're never going to get to the point where
22 we're satisfied. I just don't see that. It's not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 been historical.

2 I think it bears a good deal of thought by
3 the people in this room and the groups that you
4 represent to think about how we do that, because we
5 can't get away from it. You're going to have people
6 coming at you with precautionary principles or people
7 saying that's baloney, let's just do it.

8 You get far right and far left and you
9 can't get to the middle. You can't get to a place
10 where you can all talk. The concept of risk
11 management allows you to get to a place where you can
12 at least talk about it and then a policymaker has to
13 make a policy decision, fine, and you vote for whoever
14 you want to make that decision, but at least you get a
15 place to start from.

16 You may come to more agreement on what the
17 affects are and what the possible solutions are to a
18 situation. Yes, sir?

19 MR. BILLY: The entire food safety arena
20 is managed - or risk managed.

21 CHAIRMAN LAUTENBACHER: There you go.
22 Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. BILLY: Risk assessments is used
2 extensively. Scientific principles drive risk
3 assessment. Managers are informed of the
4 uncertainties as part of their decision process.
5 That's nationally and internationally.

6 All kinds of precedent, principles, all in
7 place. You might want to look at that.

8 CHAIRMAN LAUTENBACHER: Well, that's a
9 good example and we've talked about having concrete
10 examples. That's certainly one where we could roll
11 that out as a way to look at it.

12 MR. BILLY: A precautionary principle was
13 rejected as a daily useful tool for assuring food
14 safety because it's an opportunity for politicians to
15 walk away from the science and make other decisions
16 and there's no discipline in getting back to the
17 science.

18 CHAIRMAN LAUTENBACHER: Yes, in my view,
19 it's not enough discipline in it. That's a good way
20 to look at it. Okay. Obviously, the end there, it
21 could continue to push for more understanding and
22 that's what - we all have to support research and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 development programs because if we don't, we're not
2 going to get into understanding more and more about
3 what's going on.

4 It always bothers me when somebody says,
5 well, we already know all that. Just do it. Just do
6 what I want you to do, because we know enough. I
7 think that's a bad way to go.

8 In most cases, we do not know enough and
9 we are always having to deal with uncertainty and we
10 want to support money for research and development and
11 bringing out new techniques, new ways to do things.

12 We have got to ensure our budgets allow
13 enough for pushing into this void of understanding
14 that we have in many cases. I'm encouraging a balance
15 approach at that. Okay. Let's see. Try that again.

16 There we go.

17 Considers multiple external factors. This
18 is a place where we already do a lot of this, but we
19 can do a lot more. What do we mean by that?
20 Specifically, ocean conditions. If we understand the
21 ocean conditions in which the fish and the ecosystem
22 is existing, it's going to allow us to do a lot more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in terms of managing it responsibly.

2 Weather makes a big difference, obviously.

3 Climate variability. Species interactions, which you
4 all are familiar with. That's one of the biggest
5 things we're looking at now. An example that I
6 mentioned last time with the herring fishery and
7 interaction between various levels of the predator
8 chain.

9 Pollution. You have this lobster shell
10 disease going on in the Northeast now. It's a
11 terrible thing that's going to really hurt the
12 industry up there if we don't figure out how to deal
13 with that holistically.

14 This is not something the fishermen can
15 control. It's something we talked about drawing the
16 boundaries on land, where we have to deal with what
17 goes on. It's not all pollution, but it certainly
18 looks like it's part of it at this point.

19 This is one of the keys to talking about
20 ecosystem approaches to management. It's the fact
21 that we're going to look at all of the issues that
22 impact upon a geographical region and its system of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 biological organisms.

2 We need to do research in these areas and
3 connect them with the biology. That's a big push that
4 I've tried to bring in to NOAA is to try to deal with
5 these, not as stovepipe issues, but as cross-
6 management issues. We should all be looking at these
7 things and how they impact the chain of life in the
8 oceans and the coasts.

9 Okay. This is the other thing. We cannot
10 forget this one. I have tried to bring this into
11 almost everything we do inside it, balance diverse
12 societal objectives. Economic needs, social needs,
13 environmental needs. There's examples of each of them
14 up there.

15 It's sort of interesting. I didn't make
16 this distinction here, but recreational fishing is a
17 social need, which is an interesting way to look at
18 it. I don't know.

19 You might call it an economic need, too,
20 because there's a huge industry out there that depends
21 upon recreational fishing being successful and us
22 having the kinds of safeguards in place that allow

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that industry. It's an economic - and it's an
2 environmental need, too, for that matter. You've got
3 to deal with the fish docks and we've talked about it.

4 It's hard to compartmentalize those things
5 that are up there, but we need to be very clear about
6 the statement that these things are connected and that
7 all of us, whether we're really depending on the
8 economic side or on the environmental side, we're
9 looking just at an environmental factor, that they are
10 connected and we've got to deal with them as multiple
11 factors and we have to do our best.

12 I hate the word balance, but it - to me -
13 balance - I mean, they all need about the same
14 thing. If you don't have healthy waters, healthy fish
15 stocks, and healthy beaches, you don't have
16 recreational fishing, beach tourism, boating, commerce
17 and fishing industries. You don't have any of that.

18 If you don't have an economic system and a
19 social need, you're not going to be able to have the
20 money and the willpower to deal with the environmental
21 needs.

22 It's a connection that's life and death,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 quite frankly, and it's not something you can put
2 economic needs over here and you can throw
3 environmental needs over there and say, well now,
4 let's see if I can put them on a scale and balance
5 them. It doesn't work that way.

6 They are so interconnected that you can't
7 have one without the other. You cannot impact one
8 without impacting the other. I think all of you
9 realize that. Those of you that make your life on the
10 sea know that that's a truism. It's this recognition
11 to get everybody on board; that's where we need to
12 deal. We need to deal where it fits together, the
13 connections.

14 Let me stop with ecosystem approach to
15 management. Steve Murawski's going to give you more
16 on the internal workings and thinking that we're
17 doing.

18 I'm going to switch to something which I
19 didn't do very well last time, but I think it's
20 important to understand because it is a way that we
21 can deal with having a better approach, better way to
22 do ecosystem approaches to management, and that is to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have better observations.

2 I'm going to talk to you for a few minutes
3 about GEOS and bring you up to date on it, the global
4 earth observation system of systems. This is a
5 concept that originated in NOAA a couple of years ago.

6 We were able to get it as a part of the G-
7 8 agenda. It really came out of listening to all the
8 work that was done for the world sum of unsustainable
9 development.

10 If you read all of the wonderful things
11 that you're supposed to do after the world sum of
12 unsustainable development, it all depends on
13 understanding the earth and having data and
14 information to make the proper kinds of decisions.

15 Everything you want to do, whether it's
16 energy, whether it's clean water, whether it's better
17 development, whether it's healthier coasts, whether
18 it's an improved economic system, it all depends on
19 understanding the earth and having the data. The
20 thought was that if we could get a foundation of data
21 with the global earth observation system of systems,
22 basically an MRI for the earth.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Let's get everybody to collaborate. Let's
2 get nations to trade data to fill in the gaps and
3 start getting enough money and support to be able to
4 provide continuous monitoring of the kinds of
5 variables that we need to understand our earth better.

6 We'll have a much better chance of
7 improving the economic situation of many nations and
8 our own ability to compete in the world. That now has
9 gone from 30 nations that signed up originally at the
10 ministerial level.

11 Colin Powell opened the earth observing
12 summit one here a couple of years ago in July, along
13 with four other of our Cabinet-level folks, including
14 our boss, Don Evans, the Secretary of Commerce, to 60
15 countries in European Commission and 40 international
16 organizations.

17 There's about 100 people in this now.
18 I've agreed to a ten-year plan to build a global earth
19 observing system of systems. We've just - I came back
20 from a meeting in Geneva. We were just setting up a
21 secretariat for a permanent organization.

22 It's not a U.N. organization, so it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 doesn't have to go through the U.N. bureaucracy, which
2 is kind of nice to start with, but it has all of the
3 U.N. organizations in it. FAO is in it there, is part
4 of this, just - those of you that are in the fisheries
5 world - FAO is part of this organization.

6 The IOC, the Intergovernmental
7 Oceanography Commission, the folks that worked on
8 GOOS, are in this. The WMO, the people who do weather
9 and climate, are in this. The IPCC, the climate
10 folks, are in this.

11 The ISDR, the international strategy for
12 disaster recovery, the people that worried about the
13 tsunami, they're in this. You name it and they're in
14 that. All of the U.N. - because they have a place
15 finally to talk to each other. If you think it's bad
16 listening to 15 agencies of the U.S. Government talk
17 to each other, you ought to listen to 20 of the U.N.
18 organizations talk to each other that have never
19 talked to each other.

20 This is a forum, finally, when you can get
21 the FAO to talk to the oceanographers, which I think
22 is a pretty good deal, quite frankly.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That's what's going on with this and I
2 think eventually, we'll get everybody to join it
3 because there's nothing to be lost and everything to
4 be gained from understanding more about the earth and
5 it's not just physical data, it's biological data as
6 well.

7 The whole object of this is to get to the
8 chain of life on earth to understand how it's
9 supported and how we can do better at managing our
10 approaches to managing the factors that will help us
11 sustain that life at the levels we'd like to have for
12 ourselves and our grandchildren.

13 You see down there, it's a distributed
14 system of systems, so it's not challenging anybody
15 politically. It's not the United States going and
16 saying, we want to take over your system.

17 We just want you to join hands with us to
18 build a collaboration and agree to exchange data and
19 to fill in the gaps and to support the continuity of
20 data and that sort of thing. You can see that, if you
21 read those points down there. The big one is the
22 exchange of data information.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 You wonder why the Indian Ocean had such a
2 hard time with that tsunami. Many countries in the
3 Indian Ocean don't want to trade data. They don't
4 even want to tell other nations what their tide gauges
5 register, which is silly to me. I don't understand
6 that necessarily.

7 To have a warning system for a tsunami,
8 you have to have an idea of what the water level's
9 doing. We do it in the Pacific, because we've been
10 able to get nations to agree to real-time hookups of
11 tide gauge data, which gives you long wave length
12 fluctuations and water level.

13 They don't have any of that in the Indian
14 Ocean because there's not enough trust among the
15 nations. The technology is simple. I mean, these are
16 15K - we could go out and pepper the Indian Ocean with
17 tide gauges at this point if we wanted to, but if the
18 political powers that be don't want to exchange that
19 data, they're never going to have a warning system.
20 That's just a very simple example.

21 I mean, when we start talking about
22 managing fisheries, we've got lots more issues for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unregulated, illegal, unreported fishing, for figuring
2 out migration of species when we talk about how the
3 migratory species.

4 We talk about water boundaries that the
5 fish don't follow. They move from one nation's
6 territory easy to another very freely. If you can't
7 start exchanging that kind of data and do it in an
8 open way, we're going to have a hard time really
9 managing things.

10 You know this for sure because if you look
11 at some of the biggest disputes we have for fisheries,
12 they occur where countries' boundaries are.

13 Look in South America. Look at our issues
14 with Canada. Let's just talk - we don't even have to
15 go very far. Let's just look at U.S. and Canada,
16 because you go all the way around the world, you start
17 looking at this exchange of data and figuring out how
18 to deal with it.

19 This is a big thing and it can help the
20 fishery management and ecosystem management. That's
21 actually what it's designed to do. I'm bringing this
22 up because I don't want you to look at it as just a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 tool for the meteorologist to provide you better
2 forecast for tornadoes and hurricanes.

3 The object of this is for us to be able to
4 provide better management and understanding what's
5 going on in living ecosystems.

6 That goes for ground-based systems, too,
7 because this includes, as I say, 15 agencies are into
8 this. This is not just a NOAA thing. This includes
9 everything from seismology to ground cover to energy,
10 searching for energy in a picture of the solid earth,
11 that sort of thing.

12 Okay. It's an important adjunct. What
13 the United States has done is created a strategic plan
14 for the U.S. integrated earth observation system.
15 It's on our website. You can see the website then.

16 I encourage you to look at it because in
17 there, it talks about the benefits and how we're going
18 to get there to things that you all care about. Of
19 course, we all - I care about them, too. It does talk
20 about how we're going to improve our oceans and coasts
21 and how we're going to manage in those areas.

22 We have folks in NOAA, from all parts of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 NOAA, involved in helping to build this system. This
2 is the first - I won't call it a blueprint, but it's
3 at least an outline, if you want to put it that
4 way. It's a little bit more than an outline, but it
5 tells you what the benefits are and what it's going to
6 take to get them.

7 We need help and we need input. We need
8 folks who want to push this idea, because I think it
9 can help us. This is how it's managed internationally
10 at this point. As I say, there's 100 organizations,
11 40 of which are already international, inter-
12 government organizations.

13 They're not allowed to be in charge. It's
14 only countries that are allowed to be in charge. The
15 co-chairs now - we settled on having an executive
16 committee of 12 nations. Those are the nations that
17 were elected at the first meeting after the third
18 summit.

19 You can see, we've got the Americas,
20 you've got three co-chairs, U.S., Brazil, and
21 Honduras. In Europe you've got three, E.C., Italy,
22 and Germany. In Africa, you've got South Africa and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Morocco. In Asia, Oceania, you've got China - it was
2 one of the four co-chairs - Japan - I'm sorry, that
3 slide is wrong.

4 That should say - no, that's right. Japan
5 and Thailand. That's correct. It was one slide that
6 was wrong before. Yes, it was the Honduras. Okay.
7 That's okay. It's Guatemala.

8 One of those things - that's the correct
9 slide, I just wanted to make sure. CIS, that's the
10 old Soviet Union. There's one representative from
11 that area and of course, Russia usually gets to be
12 that.

13 We've got a pretty good group of folks in
14 here to deal with this. I think it's going to play a
15 bigger role in the United States as this moves
16 along. We have a chance to drive this. That's the
17 important part.

18 How does it fit with things that you know?
19 Many of you understand GOESS, the global ocean
20 observing system, which has been going on and people
21 have been trying to do that for the last 20, 25 years.

22 We also, in the United States, have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 created now an integrated ocean observance system
2 called IOOS. That's a development plan that's been
3 worked on through an interagency office. That becomes
4 a piece of the global ocean system, which becomes a
5 piece of GOESS, and that is in part of our strategic
6 plan and of course, our strategic plan is really a
7 component, a U.S. component, for GOESS.

8 That's kind of the roundabout way it
9 works. All of the other systems are set up that way,
10 as well. The ocean, the atmosphere, solid earth,
11 seismic systems, that kind of stuff.

12 Now, let's talk about how this comes down
13 to you all. The IOOS, integrated ocean observing
14 system, the piece for the United States looks like
15 this in terms of regional associations. That is the
16 architecture that has been set up.

17 Now, we want that to fall into and be
18 compatible with the ecosystem regions that we've
19 talked about. We want these observing systems - when

20 I say we, I'm hoping I'm talking for
21 everybody - we want these observing systems to be
22 providing information that helps us, helps you, helps

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 our regional fisheries, helps our fishery management
2 councils, deal with resource management issues.

3 You've got these in Northeast, Mid-
4 Atlantic, Southeast. You've got the Caribbean, Gulf,
5 Southern, Northern, Pacific. You've got three. Then
6 you've got the Alaska and you've got the Pacific
7 Islands. The match-up is pretty good. We have a lot
8 of interest now in ensuring that these are not just
9 weather buoys sitting out, although that's important,
10 but that we are going to include in there fishery
11 surveys.

12 Remember, observations come from ships.
13 They come from people. They come from counting
14 things, not just robotic instruments. This is a tools
15 that we need to be aware of and we need to build and
16 make it work for us.

17 There's a lot of the NOAA science centers
18 are involved in this and fishery science centers are
19 now involved with it, as well as our meteorology and
20 our ocean folks. We need interest and involvement in
21 making this work.

22 Now I want to talk about technology a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 little bit. This is just one example. Are there any
2 questions? Anybody want to stop? You have to shout
3 at me, because sometimes I don't see hands very well
4 at this distance. Just shout out if you want to talk.

5 I mentioned before when I was talking
6 about ecosystem approaches to management the fact that
7 we have to continue to do research. We have to
8 continue to have funding. We have to continue to look
9 at innovative ways to do it.

10 This is a picture of the way we observe
11 the earth right now. We have sort of a base level,
12 which obviously fish live in the water, so you're very
13 concerned about that. Then you have satellites. You
14 do get some information from the atmosphere, but it's
15 not as sustained and robust as could be.

16 Why not have UAVs taking data from the
17 atmosphere? They go out for long missions. They
18 don't put any pilots at risk. They can provide
19 continuous monitoring of atmospheric effects. They
20 can look at the surface of the earth and tell you
21 what's - in some cases, they can look below and see
22 what's going on.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 You can do a lot of things with these. We
2 are now experimenting in NOAA with the Predator, which
3 is a smaller one. What you see up there is a picture
4 of a Global Hawk, which is the large-scale - what
5 global means, it does - they cross the ocean and they
6 can warrior for a couple of days over ocean targets.

7 The Predator is a little smaller, but the
8 Predator can still have 30 hour missions, so that's a
9 long, long time to get something in the air to take a
10 look at environmental information.

11 This is what we've been doing recently.
12 It's called the ALTAIR. It's a modification of the
13 Predator, the same kind of instrument or flight
14 instrument that was used in Afghanistan and they're
15 using over Iraq today. You can see it has a duration
16 of 30 hours. Altitude, it can go up to 52,000 feet,
17 so it can get way up there, or it can get low and skim
18 the water if you need it.

19 We've got a partnership with NASA and the
20 GAs, general atomics. That's the company that builds
21 these things and they modified one of these on their
22 own nickel, by the way. Nobody paid for this, so

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they're betting that this will be useful to the non-
2 military world. I think it has a lot of potential.

3 There's a lot of advantages to
4 recapitalizing the NOAA air fleet with some UAVs
5 versus the normal old man-operated airplanes that we
6 have that only go up for a few hours and have all the
7 drawbacks of having to worry about the human
8 conditions that need to be taken care of.

9 These are some of the things we tested in
10 this. It would be kind of interesting because you
11 could have much more - we've talked to the Coast
12 Guard, the Coast Guard is testing this as well. You
13 would have much more fair - it may be robust, but fair
14 - fisheries enforcement because you'd have coverage of
15 larger areas that could be done pretty cheaply, quite
16 frankly.

17 You could do charting and mapping. You
18 can put - we put lidar instruments on these things, as
19 well as visual video-type cameras to take pictures of
20 various features, ground features. You all know that
21 we have a huge backlog in charting and mapping, and
22 that hurts our fishing fleet as well.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Habitat analysis. You can do a lot of
2 shallow water habitat analysis from these planes and
3 if you can send them up for 30 hours, you can do an
4 awful lot, versus the two- or three-hour missions that
5 we have today that take a lot of time to stage and
6 prepare for.

7 Coral reef mapping and monitoring. You
8 can imagine how much better it would be to take care
9 of the Northwest Hawaiian Islands with a couple of
10 flights instead of what we have today. With a ship,
11 you couldn't get up and down that very quickly. Get
12 one or two flights over this, you'd know exactly
13 what's going on, who's doing what, and you'd be able
14 to take care of it. Yes, sir? Vince?

15 CAPT. O'SHEA: Thank you, Admiral. I
16 don't see fishery surveys here. Are you guys looking
17 at that? That would seem to be a terrific thing to be
18 able to do.

19 CHAIRMAN LAUTENBACHER: Yes, I think it's
20 possible. My team hasn't gotten that far yet, but I
21 think it's possible to do some fishery surveys.

22 CAPT. O'SHEA: Well, one of the things

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that jumps out is two huge issues that we face. One
2 is herring management up in New England, and the issue
3 of localized depletion in the near shore versus
4 offshore area.

5 We're going through the same sort of food
6 fight down the Chesapeake Bay with menhaden. Both of
7 those fish are frequently up on the surface and soon
8 they'd be - in fact, that's how they catch menhaden is
9 by spotter planes.

10 CHAIRMAN LAUTENBACHER: You could
11 definitely do that within certain depths, depending on
12 the water. I'm all for it. I think that's a good use
13 of it. I think you can do acoustic surveys, too,
14 because you can have buoys out there and you can
15 monitor them with these.

16 You can send a plane over to listen and
17 get information on a regular basis of what the
18 profiles look from just normal kinds of low-level
19 sonar or just listening or just passive buoys. You
20 could do that with a plane that goes back and forth
21 instead of dragging a ship over there with all the
22 people and all the money and the fuel and everything

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 else.

2 There's a lot of things that could go on
3 here and we need people to push us to do this, because
4 quite frankly, the money migrates to the operational
5 need immediately on the table. I mean, we've got to
6 keep a balance between looking for better ways to do
7 the business and keeping up to date with things that
8 we know we're behind in.

9 Obviously, we don't do as many fishery
10 surveys as we ought to. We don't have the resources
11 for it, but we could do it a lot faster and do it
12 better if we'd come up with something.

13 Of course, I don't have in here the idea
14 of underwater robots, too. I mean, we can have UAVs,
15 underwater automated vehicles, that can do things that
16 you can't do from a ship or that you can do cheaper
17 than a ship.

18 This happens to be the first thing we've
19 had sort of a large scale test of and have tried most
20 of these things in a space of about three or four
21 weeks. Vince, I think that's a good thought and we
22 need to put it on there.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Emergency response, damage assessment, I
2 mean, all those things. You talk about the Coast
3 Guard is interested in this, too. I mean, there are
4 other agencies that could make great use of this
5 versus trying to spend money on manned airplanes.
6 We're working in this direction, but any encouragement
7 and help you can give or ideas I think would be
8 useful.

9 Let's go to something that you're more
10 familiar with, but we ought to become familiar with
11 those two other topics that I just talked about
12 because I think they're important for all of us,
13 important for our country.

14 Aquaculture. Current momentum is
15 favorable. We think that this is a good time. A lot
16 of you have been working on it longer than I have, but
17 I've been working on it for five years, so it's good
18 to see something happening. You've been working on it
19 a lot longer.

20 With the Ocean Commission Report that has
21 come out with the setup of the Ocean Action Plan with
22 the President saying he supports doing something and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we had some interesting favorable comments from
2 Senator Stevens in public, which reversed some
3 previous statements had been made.

4 There is some interest in trying to set
5 this up so that it's done - environmentally, it's done
6 correctly, and I think we're there. We're going to
7 roll out that bill today and I think that's going to
8 be a good starting point for a national debate -
9 hopefully it will be. I guess the other word on
10 Stevens is we expect him to co-sponsor the bill. He
11 said he will, so that's pretty good.

12 The trade deficit. I mean, you all don't
13 know about the trade deficit. There's an eight
14 billion dollar trade deficit in fishery products and
15 70 percent of the fish that we eat in the United
16 States come from overseas, they come from other
17 fishermen. They don't come from our fishermen. Forty
18 percent of that comes from fish farms or aquaculture.

19 You can't ignore it. We have to deal with
20 this in the United States and it's time to get started
21 with - it's well beyond time to get started on dealing
22 with how to treat this. How are we going to do this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in an environmentally responsible way?

2 I think that if we can solve this problem,
3 it will put pressure on the rest of the world to do it
4 in a more environmentally friendly way. We will all
5 benefit from that.

6 You have the Department of Agriculture
7 telling you you've got to eat twice as much
8 seafood. If you look at the figures projected from
9 what they say is a healthy diet, that means we need to
10 figure out how to provide more seafood for our public.

11 Job creation. Obviously, we need to worry
12 about how we - with all the things that are migrating
13 away from this country, we need to figure out how to
14 deal with providing more job opportunities for people
15 along the coasts. This is a way to do it.

16 The other point - yes, sir? John?

17 MR. FORSTER: In parallel with the
18 legislation, which I think is a tremendous step
19 forward, I'm wondering how much consideration is being
20 given to demonstration funds as a concept to give
21 people comfort, really, that this thing really can be
22 done from an engineering and promotional point of view

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and from an environmental point of view and to provide
2 NOAA with data that it generates within its own - that
3 can really be help for them in making a stronger case.

4 CHAIRMAN LAUTENBACHER: Part of what we're
5 talking about is first of all, to continue or expand,
6 if we can, the amount of money that we can provide for
7 demonstration and research in these areas, so that's
8 in there. The permitting process allows for this -
9 the provisions in the bill are not meant to define
10 everything to the point where it excludes things.

11 If we look in the bill, there are
12 provisions in there that allow for the kinds of
13 demonstration there are indeed, so we can permit
14 things like that in this bill.

15 We've got the two things going.
16 Hopefully, we can get some money and we can get the
17 permitting, we can provide that kind of a leading edge
18 benefit to it.

19 VICE CHAIRMAN HOGARTH: We are working
20 with a few states now, but I guess it's a different
21 thing to try to see if we can get some demonstration
22 finally started. This would be a more recent fight to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 fight. In fact, the council is setting an aquaculture
2 plan so in case - just sort of running in the same
3 path this is going. We would like to see some
4 projects started next year.

5 CHAIRMAN LAUTENBACHER: Yes, sir?

6 MR. KENT: The difference between
7 establishing a mandate on a Federal level and then
8 reducing it down to the regional side of things is
9 sometimes complex if the infrastructure isn't in
10 place.

11 Now, I know you have a NOAA matrix
12 coordinator now in Michael Robino and I think that's a
13 great first step, but how do we translate down what
14 NOAA's trying to do on a grander scale down to the
15 regional level so that the infrastructure is in place,
16 because when the rubber hits the road, it's going to
17 happen on the regional level.

18 You talk about regional management, we
19 don't want to touch certain things, but that ethos has
20 to be in the regional office as well. How do you get
21 that down there in the short term to take advantage of
22 what you're establishing as a national mandate and a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 national opportunity?

2 Dr. Hogarth mentioned that the Gulf,
3 through its council, I assume, is beginning to develop
4 a policy structure for the Gulf. Is that the approach
5 that we ought to be taking on the West Coast? Is that
6 what Alaska ought to be doing?

7 Are those the things that are worked in so
8 that what works on the Gulf can work in the East Coast
9 and can work on the West Coast and that sort of thing?
10 Have we thought that far through?

11 CHAIRMAN LAUTENBACHER: Yes, I'm - Bill,
12 do you want to take over for a second?

13 VICE CHAIRMAN HOGARTH: We've thought
14 along a couple paths. We're wasting the council's
15 time to go do a national aquaculture - how do we fit
16 the council in? I think that's something we will talk
17 more about than we do the regulations and these bills.

18 I think you're right. We've talked about
19 it internally. Not a lot of money in agriculture.
20 It's not easy right now. It's just a sign of the
21 times. Money is tight.

22 We have talked about the regional approach

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and setting up regional - going to be some type of
2 regional steering committee to work with the regions.

3 I think that's probably where we'll go. That way,
4 council members and others could have a regional
5 structure, sort of a steering committee for that.

6 We're not opposed to the council process
7 except how does that fit in with the regulations we're
8 doing long-term into - do we want to send them off on
9 a path now that may not be the path that they want to
10 be on?

11 MR. BILLY: It looks like the Gulf's
12 already doing that.

13 VICE CHAIRMAN HOGARTH: Yes, the Gulf was
14 ahead of us, to be honest with you. It just takes a
15 long time to get it going, but it's sort of a piece
16 bill with them. It's when they've got time to work on
17 it, it's not a type priority of the staff.

18 It's not a type priority, but it's
19 something they're working on. I think it's something
20 we have to talk about. As we discussed this with
21 MFAC, how do we make sure that we are ready on a
22 regional basis as well?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 When do we see the top priorities that
2 will be? Where should we be sort of focusing some of
3 this attention? How can we make sure this is a
4 successful program? That is the key to this. We have
5 got to start off being successful.

6 We can't afford to undertake something
7 that's high-risk if we fail in this aquaculture,
8 because there's too much controversy surrounding it,
9 but it's something that this country has got to move
10 forward with, I think. It's a balance.

11 MR. KENT: It may be the councils here
12 rest inroad for creating that synergy within the
13 region simply because - well, right now, we have two
14 potential laws in California.

15 We've had the salmon ban passed two years
16 ago and now we have a whole series of laws for culture
17 in the coastal zone that are coming up that are sort
18 of restrictive. I don't know why anybody would want
19 to even try to attempt it.

20 Now, they're starting to talk about
21 passing a law that would inflect a landing fee on top
22 of any cultured product coming into a California port.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 When you start adding those sorts of things up, why
2 wouldn't somebody just go to Mexico and do it?

3 We're talking about taking a region of the
4 United States and basically eliminating all of the
5 species that could be cultured there and taking those
6 out. I don't mean to get overly specific. I just
7 have experience in this area.

8 I guess there's going to - as part of
9 this, we're going to have to bring the states in and
10 make sure the states are integrated into this process
11 so that we don't set a mandate on a national level and
12 end up having the knees cut out of it at the state
13 level or even at the county level.

14 Those are the kinds of considerations that
15 - this is the starting point - are going to have to be
16 taken forward into this process.

17 CHAIRMAN LAUTENBACHER: As Bill said, we
18 don't have a lot of resources devoted to
19 aquaculture. It's been really hard to get resources
20 devoted to aquaculture.

21 I am a little disturbed about that, but I
22 try to get resources for this area - I mean, for all

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 of NOAA, but aquaculture has been a hard - it doesn't
2 compete against the wild harvest fisheries, quite
3 frankly.

4 When we offer up and try to provide
5 aquaculture programs inside of NOAA, they get sucked
6 up by the rest of NOAA. Then, if we can get them
7 through in a balanced way in terms of our budget, when
8 we go to the next level, we've got the same problem.

9 It comes back to, well, you don't have
10 anything to do. There's no authority. There's no
11 bill. There's nothing. There's no law.

12 MR. PARTICIPANT: There's no industry
13 driving it.

14 CHAIRMAN LAUTENBACHER: There's no
15 industry and it's not - so what's the cart or what's
16 the horse? Where are we going? We've tried in the
17 last couple of years, since we can't get money for
18 this, let's try to get some regulatory framework in
19 place, some kind of national mandate that we can work
20 on, whatever that is. We are hoping that this bill
21 will help us.

22 I agree with you. We need to have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 aquaculture experts in each one of our regions. There
2 needs to be some kind of a regional structure that
3 deals with it.

4 The bill allows, first of all - it honors
5 all the other laws and it maintains the ability of the
6 Fishery Management Council to be a partner in
7 determining what's going to happen with aquaculture so
8 that everybody - it doesn't cut anybody out of the
9 process, but it's going to take people and resources
10 to do it. I'm with you.

11 A little bit of history that I think
12 provides a good example for maybe looking to the
13 future. Back when the Law of the Sea Treaty was
14 signed and shortly thereafter, the Magnuson Act
15 passed, NOAA organized it to promote the development
16 of U.S. fisheries all around our coasts where foreign
17 fishing was taking place.

18 It was a multi-faceted strategy that
19 included systematically reducing foreign fishing,
20 development of new technology, research, conferences
21 on how to use species we were totally unfamiliar with.

22 There was the Saltonstall-Kennedy or S.K.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Grant program that provided all kinds of support to
2 help build the infrastructure. The financial services
3 program provided somewhere in the neighborhood of
4 three billion dollars in loan guarantees to build the
5 vessels, the factory trawlers, the other equipment.

6 We had the Fishery Management Councils to
7 deal with the management. We hired international
8 experts in embassies around the world to promote U.S.
9 products. We participated in foreign trade shows. We
10 had, for several years, the Seafood Marketing Council
11 in NOAA promoting seafood and the benefits of seafood.

12 It was a very integrated approach that I
13 believe was very successful. We have some problems
14 with fisheries management. There are some other
15 issues, but if you step back and look at it, we
16 succeeded. I really believe it's that kind of
17 approach that NOAA needs to take if we're going to be
18 successful with developing aquaculture in the EEC.

19 It can't just be a regime for management
20 and issuing permits. Now, whether it's NOAA that does
21 all those other things or not needs to be sorted out,
22 but that's the agriculture model. Agriculture. How

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we, over the last 100 years, developed agriculture.
2 New species, new plants, how to grow them, new
3 technology, markets, etc.

4 That's what an aquaculture industry is
5 competing against. To be in the game, to be
6 competitive, we need to be thinking along those lines,
7 however that gets done.

8 VICE CHAIRMAN HOGARTH: Sam Bodman, I
9 think, was one of the most - people that pushed us in
10 support of the fisheries, but we never could really
11 get him convinced of aquaculture.

12 We couldn't get past him as to what jobs
13 were they creating? What is it they'll do? We never
14 could get - we couldn't get a path to the parliament
15 really as to - I think this bill, if we do it right,
16 and we've got to do it right, when we start developing
17 regulations and bring everybody in so we really have -
18 -

19 CHAIRMAN LAUTENBACHER: I agree with
20 everything you've said. No, it doesn't work without
21 that. I've been puzzling on how to get the resources
22 to do what you're talking about. We've been fighting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 internally for a long time with Agriculture and
2 Interior and everybody else and the states, and
3 everybody's got a piece of this.

4 It's a real jigsaw puzzle of little,
5 teeny, tiny pieces that don't seem to want to go
6 together.

7 MR. BILLY: Ecosystem management.

8 CHAIRMAN LAUTENBACHER: Yes, it's like
9 that. It's a piece of it, yes. But you're right.
10 You're absolutely right. I tried a little bit of that
11 when I came into this job three and a half years ago,
12 and it just didn't work.

13 I'd love to have another effort at
14 that. What are the elements of a program that would -
15 you just went through them. It's easy. I don't want
16 to say it's easy, but the concept of what it would
17 take to produce something would be good. I mean, it
18 would be good and easy to do in that sense and lay it
19 down.

20 I think we need your thoughts on it.
21 That's certainly - and your backing. This is a group
22 of very influential folks who understand what goes on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in the real world out there. You can help us with
2 that kind of an approach.

3 Commerce - this is something that should
4 interest all of Commerce. It's the Department of
5 Commerce. EDA, economic development grants, the
6 technology transfer, export controls, the whole range
7 of other folks that are in Commerce besides me and
8 Bill and the fisheries and the environmental side of
9 the world.

10 It's hard to get enough enthusiasm fired
11 up. I am for big programs that are laid out well and
12 then try to go for it. I agree. I think that would
13 be a good thing to do. Kitty?

14 MS. SIMONDS: I just wanted to say,
15 obviously, you need a political hook to get people
16 interested in this.

17 CHAIRMAN LAUTENBACHER: Yes, you do.

18 MS. SIMONDS: Some of the things that we
19 always talk about in terms of healthy fisheries and
20 all is that if we don't continue to fish our healthy
21 fisheries, people will continue to want fish, and
22 we're importing fish from countries that actually

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 undermine our environmental laws.

2 I think you need to like think about that,
3 expand on something like that, and tie it to a
4 political hook.

5 CHAIRMAN LAUTENBACHER: Yes, I hear
6 you. I think that's right. We're trying the trade
7 deficit and the one I didn't put up there which is
8 important is food security. I mean, do we want to
9 have our food supplies under the control of somebody
10 else?

11 Do we want to have that much of the
12 protein that we need in this country under the control
13 of somebody else who's doing the environment harm, in
14 many cases, and not following the processes that we
15 think support sustainable fisheries from beyond our
16 generation?

17 MS. SIMONDS: Basically undermining our
18 own environmental programs.

19 CHAIRMAN LAUTENBACHER: Right. It is.

20 MS. KATSOROUS: Besides that, though, the
21 State Department's list -- all the countries that are
22 important for one thing or another are on the State

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Department's list, and many of them harbor
2 terrorists.

3 CHAIRMAN LAUTENBACHER: Yes, I'm with you.

4 It's a national security issue. I agree. I don't
5 have any trouble with standing up and supporting that
6 concept.

7 VICE CHAIRMAN HOGARTH: But I'm going to
8 list the one issue that I hope MFAC will stay
9 involved, because I think we've got two years ahead of
10 us to do regulations and to really sell this, so I'm
11 hoping this is one of the long-term --

12 CHAIRMAN LAUTENBACHER: Yes, and I can't
13 tell you how hard this was to get out. Even this
14 bill. I realize the bill is just one - as Tom was
15 saying, it's just one element of making this work.
16 This was extraordinary. People were --

17 MS. BRYANT: We didn't tell the members
18 what their briefing was last night, because we weren't
19 certain we could really go out with it.

20 CHAIRMAN LAUTENBACHER: Yes, I mean, we've
21 had a horrendous time trying to get this through, so
22 it's - but we shouldn't quit. This is the time when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 we have a chance and some momentum, so we ought to go
2 with it. I'm sorry, we had a comment over here.

3 MR. BILLY: It's about industry. One of
4 the things I would say, we have an industry. It's not
5 big, it's small.

6 CHAIRMAN LAUTENBACHER: Right. We do have
7 an industry. Good point.

8 MR. BILLY: We are creating jobs. We are
9 paying taxes. You've got to draw upon us to go after
10 this, use us as example.

11 CHAIRMAN LAUTENBACHER: I'm all for it.
12 I'm all for it. I'm there. You won't have to
13 convince me. I'd be happy to be with you on that.
14 Okay? All right. Do we need to take a break, or just
15 keep going? Okay. We can go a little longer.

16 Okay, so the bill goes up today. As I
17 said, we've got a full court press on it. It's
18 designed to allow there to be some kind of an
19 authority set up in the government so it provides
20 certainty for business and certainty for the
21 environment.

22 It supports all the current environmental

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 laws that we have today and provides the flexibility
2 to increase safeguards as necessary. We believe that
3 should be done through a rule-making process.

4 You can't put in a bill every possible
5 precaution for every possible thing. It's just not -
6 that just doesn't make sense. The rule-making process
7 I think is the best way to go and it would support
8 development of an offshore aquaculture industry, we
9 believe. That's the purpose of it.

10 Consensus building. We need help in these
11 areas that I've talked through and there are different
12 topics with different degrees of difficulty in working
13 out, but I would like to see as much interest and
14 comments and work in these areas to help us build
15 consensus among all the players in the country.

16 NOAA is here to serve the nation and we
17 want to make sure that what we do is something that is
18 useful and beneficial to the environment, to managing
19 resources, and to our economy.

20 Now, there's a thing that I wanted to talk to
21 you about. You've got Tab 9? Okay. You folks all
22 have that in your book, apparently. Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I went down to something called the SAFE
2 Awards and I talked to Bill about it when I came back.

3 It's a set of awards that's passed out by the
4 Minerals Management Service in the Department of the
5 Interior to the offshore and oil industry.

6 There are several awards. Yes, I just
7 wanted to talk about what they give them for. The
8 concept is extraordinary. They have a big meeting and
9 they bring the industry in and it's huge. They've got
10 800 people. All the major companies come in.

11 They give them awards for best safety
12 record, best production record, best documentation,
13 best - it's like the Oscars. It's like the Oscars for
14 the oil industry. Everybody shows up. They get a lot
15 of press. People are happy. They get their pictures
16 taken. They get to put it on their business card.

17 They get to put it in their reports to the
18 public. They get to use it when they are trying to
19 advertise. It's a wonderful thing.

20 I think that there would be a benefit to
21 trying to do something like that with our fishing
22 industry. We could give awards. We've gotten to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 point now where we have - Bill has started the big
2 fish meetings. We've gotten national meetings. We've
3 had two now and they've been very successful, bringing
4 in all of the folks who deal with our coasts and
5 oceans.

6 Why not come up with some concepts of
7 awards that would promote good behavior, basically?
8 The things that we want in sustainable fisheries to
9 help encourage people to do it right and to provide a
10 national platform for recognition of the achievements
11 of our folks, and on a national level.

12 I think it would be an enormously
13 productive way of working. Instead of coming in and
14 beating up people all the time, let's talk about what
15 we're doing right and pass out some trophies and some
16 blue ribbons or whatever you want. Plaques. We get a
17 big platform here in Washington and we have one night
18 for awards dinner or a luncheon awards dinner.

19 We come through criteria for our
20 processors, for our fisherman, for our conservation
21 organizations, for our Fishery Management Councils.
22 You have categories and you give people some praise

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 for doing something right.

2 I'd like you all to consider that because
3 this is an organization. We have all the various
4 groups that are here today that help us encourage each
5 other and encourage working together and good
6 behavior. It doesn't have to cost a lot of money.
7 This could be done on a relatively easy basis.

8 The fascinating thing that I found out - I
9 watched - they've been doing this for safety. Now,
10 let's just take the safety issue here. We have a
11 safety issue with fisherman too, by the way, so I
12 don't want to - we might want to think about how we
13 would reward safety.

14 That would be hard to do for us, but it's
15 not - they have a criteria for safety and apparently,
16 when they started this 20 years ago, they started
17 these awards, they were killing 28 people a year on
18 these rigs. Twenty - I mean, it was measurable
19 numbers. Ten, 20, 30 people a year were dying on
20 these rigs.

21 The injury rate now is down to like less
22 than .1 per year. It's gone gradually down and down

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and down, to the point where it's better for people,
2 it's better for the industry, it's better for economic
3 efficiency because it's provided a spotlight on things
4 that are good, things we want to try to improve in our
5 society.

6 That's incredible to me, that it would
7 make that much difference, but it did. It created -
8 instead of penalties, you have now rewards for doing
9 something better and so people now are focusing more
10 on it.

11 They don't want to be the last guy on
12 their block. They don't want to have the worst
13 rating. They want to have the best rating. As a
14 result, the whole industry's better in this area.
15 Vince?

16 CAPT. O'SHEA: Well, I think this is a
17 good idea and I know you don't want the specifics
18 right now, but just to let you know, when we get down
19 after you leave and we do start working on this, one
20 of the things I'm going to recommend is - the
21 department has the Malcom Baldrige Awards.

22 CHAIRMAN LAUTENBACHER: We do. That's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 right.

2 CAPT. O'SHEA: My recommendation to you -
3 if you're going to pursue this to your peers over in
4 Commerce, it fits right in with that philosophy that
5 the Baldrige Awards are trying to achieve.

6 Now, I think what you're envisioning is
7 something less elaborate than that process, but I
8 think the end result is the same and that is catch
9 somebody doing something right and let the rest of the
10 world know about it. I think that's very good.

11 CHAIRMAN LAUTENBACHER: I appreciate the
12 comparison to the Malcom Baldrige Awards. What I
13 would like to do is to have more categories and more
14 opportunities to reward the various sectors of our
15 business and to have several. You don't have to give
16 out just one for the whole organization, you can have
17 more.

18 CAPT. O'SHEA: As follow-up, to me, one of
19 the values of the Baldrige Award is people that
20 attend that go there, learn, pick out what the secrets
21 are from the winners.

22 That's really, I think, what you're trying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to do is you want to spread the good practices to the
2 rest of the industry. It's not only just rewarding
3 it, but getting a message to the guys that didn't win.

4 CHAIRMAN LAUTENBACHER: Absolutely.
5 Absolutely. When you get everybody together, it's an
6 easy way for the message to get out, so you have it in
7 concert with the big fish meeting, you bring -
8 everybody's there.

9 They're your audience. They're going to
10 see who's done what that year and they'll be
11 interested in it. If they didn't get it and somebody
12 else did, you're absolutely right. It's getting the
13 message out and that multiplier effect is really, I
14 think, worth it.

15 I've asked Bill and company to think about
16 it and I'm asking you to give us your thoughts and
17 ideas on what you think would be motivating and
18 rewarding to the industry, to different members of the
19 industry and different parts of our management
20 structure, as well, to encourage them and reward them.

21 I think that's the end for the backup,
22 right?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. PARTICIPANT: Yes, you're done.

2 CHAIRMAN LAUTENBACHER: Sure. Why don't
3 we - that's a good idea. Why don't we take a ten-
4 minute break, then. Do you think that's reasonable?

5 (Whereupon, the above-entitled matter went
6 off the record at 10:46 a.m. and resumed at 11:08
7 a.m.).

8 CHAIRMAN LAUTENBACHER: This is the time
9 when Bill and I would like to recognize the hard work
10 and the dedication and time that's been spent by some
11 very important members of the MFAC that are finishing
12 up two consecutive terms in three years, which is the
13 limit that we have.

14 We have five, but there are only three
15 that are here today, so I want to recognize, first of
16 all, Kathleen Wynne.

17 Kathleen Wynne, Marine Fisheries Advisory
18 Committee, 1999 to 2005, in appreciation for your
19 contribution to the National Marine Fisheries Service
20 and its mission to sustain and protect the health and
21 abundance of our nation's fisheries and living marine
22 resources for the enjoyment of all citizens. It's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 signed by Bill and myself.

2 MS. WYNNE: Thank you very much.

3 CHAIRMAN LAUTENBACHER: Thank you very
4 much. All right. Donald B. Kent.
5 Congratulations. Thank you very much for your
6 service. I might say, you're all considered emeritus
7 members, so you're never going to go away. We're
8 never going to lose track of any of you, all right?

9 MR. KENT: It's a stain that never fades.

10 CHAIRMAN LAUTENBACHER: Because we need
11 you to help us. And, for Alvin D. Osterback,
12 Senior. Thank you very much, Alvin, for your service
13 to us.

14 Just to make mention of Maggie Raymond,
15 who got held up in the same mess I got in yesterday
16 trying to get out of Maine to come down here, but got
17 held up, and so we're certainly grateful to Maggie for
18 her service.

19 Mel Moon, unfortunately, was not able to
20 be here today, but we're also recognizing him for his
21 service. We appreciate the work that everybody's
22 done. Thank you. With that - Bill, did you want

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to talk for a few minutes before we go to the --

2 VICE CHAIRMAN HOGARTH: Yes, let me say a
3 few things.

4 CHAIRMAN LAUTENBACHER: We have to leave
5 in a few minutes.

6 VICE CHAIRMAN HOGARTH: Yes. Recently,
7 due to some retirements, we've made some changes in
8 NOAA fisheries with the Admiral's consent. I don't
9 know how many of you all know what has happened, but
10 I'll take a minute to go over it. Mike Sissenwine
11 just retired after umpteen years and decided to sail
12 and enjoy life a little bit. Steve Murawski, who was
13 the head of science and technology, will be taking
14 over for Mike Sissenwine as head of science for the
15 agency.

16 The S&T job we're advertising for the
17 replacement. In this, Rebecca has agreed to take over
18 the international office. Several years ago, when we
19 went through a reorganization when Raleigh was head of
20 the Agency, he was trying to get rid of SESs and all
21 to do with the international office.

22 As I've gotten involved in really the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 scene, everything is international. Everything we
2 deal with is global. We were, I thought, somewhat
3 fragmented in how we dealt with international and we
4 need to be more organized and make sure we know what
5 goes on at IETTC, goes on in ICCAT, that we coordinate
6 this.

7 Rebecca speaks many languages and is very
8 good at this. She has agreed to take over the
9 national office and we're really trying to straighten
10 that and move forward.

11 Jim Ballsiger from Alaska has agreed to
12 come for six months. I'm not sure he's going to like
13 the heat here, or either he thinks we may not like
14 him, but he has agreed to come for six months to go
15 into the deputy for regulatory, and so he'll be doing
16 that.

17 Jim Leckie, who was doing
18 intergovernmental work with us, trying to work with
19 Fish and Wildlife and other agencies on all these
20 global issues, has been doing that for over a year.

21 Laurie Allen decided to move to
22 Connecticut, to Mystic, Connecticut, and raise horses

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and paint and enjoy life or something, so Jim Leckie
2 is going to take over for tech and resources.

3 We're not going to refill the
4 intergovernmental. I think Laurie and Jim both
5 convinced me that I made somewhat of a mistake there
6 because I stripped that somewhat to the point where
7 they weren't really sure who was coordinating what
8 sometimes on some of the salmon issues and some of the
9 issues, so Jim will just have to do all that in his
10 new job.

11 The other one who that's leaving is
12 Raleigh. Raleigh is retiring, officially retiring,
13 after the IWC meeting next week, and so on the first
14 of July, he'll be retiring. We will be advertising
15 the head of habitat job. We hope we get some good
16 applicants.

17 We were very fortunate to have people to
18 really fill these positions, but I'm really concerned
19 about the future of people moving up in the Agency and
20 getting some real good young blood and new blood into
21 the agency that will be capable of moving into some of
22 the positions of the future.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I think we have a great group there and
2 hopefully, this will make us a little bit more
3 effective in some areas, particularly the
4 international and I think that's where we've got some
5 big challenges coming up with IUU and capacity,
6 particularly in compliance. We really have to work on
7 this.

8 We got tough issues with IWC. The U.S. is
9 really - and Raleigh's done I think a tremendous job
10 with IWC.

11 I'm going to the meeting this year,
12 because I'm not sure who's going to be doing it next
13 year. I may be the one. After this year, I plan on
14 giving up ICCAT and Rebecca will probably take that
15 over. Jim Leckie is also going to IWC just in case,
16 so we've got to make sure that we have that covered
17 for next year, which will be a tough year for us.

18 We are doing a - Jack, I talked to you -
19 we are doing an administration Magnuson-Stevens
20 bill. We weren't sure that we were, because we'd
21 gotten so far behind in the process, but we are doing
22 one. We hope to have it out for briefings next week.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 We're really being pushed hard by the
2 administration to do a Magnuson-Stevens bill. We have
3 been very involved with Senator Stevens as he has
4 moved forward on his bill, and that will probably be
5 unveiled next week.

6 That's a good opportunity. We are looking
7 very closely at the President's Ocean Action Plan to
8 make sure that we cover in there what he has. The
9 Admiral hasn't even had the opportunity to see this
10 yet. We have agreed on it, but it's been a very quick
11 thing to do.

12 I met last week, for the first time in a
13 while, with Jim Conkin. It was interesting -
14 something that he said that I told him, I said, I wish
15 you had told me and told the Department of Commerce
16 maybe a little earlier, that he said the President,
17 when he goes on his second term and his administration
18 finishes, he wanted no overfish stocks left.

19 I said, well, I'm not sure I can do that
20 in three years. If we had known it five years ago, we
21 could probably have done more, but we're all pushing
22 very hard for that anyway, but I said, overfishing is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 one thing, but overfished, it's going to be very
2 difficult to make that.

3 The President is very much pushing us on -
4 which I think is good - on dedicating access,
5 particularly IFQs, community quotas, and co-ops to
6 really try to manage this fishery more in a
7 businesslike matter.

8 We've asked the councils, and I'm going to
9 be putting something out to them again, to try to give
10 us some priorities on IFQs and that type of process so
11 - in the next couple of years, what would be the
12 priorities of each council?

13 I would like to see each council to have
14 at least two species that they would like to see IFQs
15 or some process started. Hopefully, the '06 budget at
16 present has million dollars to support this effort and
17 I think it's a tremendous effort and I hope we can do
18 it.

19 That and then I did tell you earlier, I do
20 hope we stay involved in aquaculture. I really want
21 to see aquaculture finished before this administration
22 finishes and I finish to get the regulations done.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I think we've got to make sure that people
2 realize that this is not a competition with wild
3 harvest. In my opinion, it can be done compatibly
4 with environmental concerns.

5 It can be hand-in-hand with the wild
6 harvest to make sure that we operate fisheries
7 sustainably, we control the market a little better so
8 that they fish always 12 months a year.

9 Some of those guys that are in commercial
10 fishing now that are having a tough time can I think
11 supplement by doing some aquacultural work, too. I
12 hope we can really educate the public and work
13 together on this.

14 There's a couple of other things I'd like
15 to talk to you about, if we get back - and I'll get
16 back with you, but to just sort of throw on the
17 table - one of them is Rob Kramer and I went to try
18 bass-fishing Sunday.

19 One thing we talked about was trying to do
20 some type of international recreational fishing
21 symposium. It's obvious when you go to these
22 international meetings that some of these countries

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have big recreational fishing, but it doesn't come to
2 the table in the international arenas.

3 They don't want to manage this stock if
4 it's a recreational stock. Even swordfish sometimes
5 is just talked about commercially. I think that we
6 could, from the U.S. standpoint, if we could get
7 recreational more on the table in some of these other
8 countries, it would probably help the overall
9 management and get people involved. We were trying to
10 figure out what would be something good that we could
11 do, so we'd like to discuss that.

12 Another thing is I've talked about to a
13 couple of people in foundations, both U.S.A. and some
14 others, is that there's a lot of money floating
15 around.

16 There's money floating around from some
17 foundations to sue the National Marine Fishery Service
18 every time you want to. There's money floating around
19 to have paper in science done on scientific efforts.
20 There's a lot of different types of agendas and money.

21 I just wondered, and I've talked to some
22 foundations, if we could get some groups together and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 maybe look at what are the three top issues or two top
2 issues or three or four top priorities and see if we
3 couldn't fund this money into a more productive avenue
4 of trying to solve some of these issues.

5 I think - I'm still convinced that a lot
6 of us, including the NGOs, because I know Chris, when
7 he was in the Gulf, I can say this for him too, Chris
8 was very supportive and very much worked with us to
9 solve the issues we had in the Gulf. I think in
10 Oceania and Alaska really came to the table when it
11 came to the deepwater cause.

12 We worked with the science center, worked
13 with the region to get the maps and data put together
14 to compromise and to try to work out some of these
15 issues.

16 I just think it's time to try to sit down
17 around a table and see if we can fund this, get these
18 focused a little better. I don't know if that's a
19 wild dream. Sometimes people tell me I'm not
20 realistic, I have these wild ideas, but I just still
21 think when it's all over, all of us have the same
22 goal. We'd like to see good, sustainable - good

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 commercial fisheries and good recreational fisheries
2 and whales for people to watch - whale-watching.

3 I do think the American public has the
4 same basic desires. That's something else I'd like to
5 just see what your ideas are before we leave
6 you. Bob?

7 MR. FLETCHER: I'd like to talk for a
8 second about Rebecca's appointment. We talked about
9 her being in the international fisheries arena.

10 The U.S. delegation going to the annual
11 meeting of the Tuna Commission is going to be
12 proposing a resolution regarding albacore and one of
13 the focuses of that resolution would be to encourage
14 the Western and Southern Pacific Fisheries Commission
15 to take some action and restrict or at least cap the
16 harvest on albacore.

17 Albacore's a hugely important recreational
18 fishery on the West Coast, hugely important, and
19 there's a lot of concern about what will happen if it
20 is listed as overfished and the U.S. begins cracking
21 down on its citizens when the real problem is in the
22 Western Pacific.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Based on everything we know from the
2 scientists, that's where the impact is. Is Rebecca
3 going to be the person that will be representing the
4 U.S. at that Western and Southern Pacific Fisheries
5 Commission? It would be great if there was some
6 continuity between what's going on at the Tuna
7 Commission now and what hopefully will start being
8 discussed once the U.S. approves that treaty and gets
9 formal representation on that new commission.

10 I'm just curious how will she interact
11 with the IATTC and the Western and Central Pacific
12 Fisheries Commissions?

13 VICE CHAIRMAN HOGARTH: Okay, we haven't
14 resolved - she really won't be official until July 12th
15 or the 12th of June, I think, and then the next few
16 weeks, we can get Jim here. Then we've got to sit
17 down and talk about who's going to be at the
18 Commission.

19 Regardless, Rebecca's job is going to be
20 to coordinate that. We have got to make sure that
21 what goes on at IATTC, the Western Pacific, and
22 ICCAT - three, for example - we've got to have one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 position from National Marine Fisheries Service.

2 We've got to make sure that all of these
3 things are vented and that whoever goes is taking the
4 message from NOAA and not - one problem we've got a
5 little bit still that we haven't worked out and we're
6 still, on two of them, we're trying to work out with
7 the State Department, the Western Pacific, and the
8 IATTC on the new dimensions and the implementing
9 legislation is who's doing what.

10 To be honest with you, the State
11 Department, every time I turn around, is trying to
12 manage fisheries more and more. I mean, they really
13 are trying to make --

14 MR. FLETCHER: They're obviously in the
15 IATTC.

16 VICE CHAIRMAN HOGARTH: Yes. They are
17 trying to manage fisheries. Yesterday's presentation
18 by John Turner was all fishery management at this
19 meeting we had. It was all fishery management,
20 absolutely.

21 I am concerned that their more power said
22 we should be - the fishery management is in NOAA in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the form of Commerce. We have to continue to work on
2 that. I'm meeting with Bill Brennan as soon as he
3 gets back and we're going to discuss this.

4 We hired another good person, by the way,
5 John Pierre from the State Department, who is really
6 going to be good. He's doing good to try to work at
7 some of these issues.

8 MS. LENT: Bill, I might add that we have
9 already had last year the first-ever meeting of
10 everybody agency-wide of all the Tuna Commissions,
11 whether it's the Western, IATTC, or ICCAT. We're
12 having another meeting on that topic with the folks
13 from the State Department. We've got to combine
14 strategy. We are looking for consistency. Our
15 overall approach has been the regional administrators
16 the commissioners, but they all need to be talking to
17 be commissioners.

18 MS. PARTICIPANT: Particularly when the
19 stocks are shared, it's a real --

20 MS. LENT: It's a real enigma, as I know.

21 MR. FLETCHER: I would really compliment
22 you on having Bill Robinson come to the General

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Advisory Commission of the IATTC. That was great. I
2 think that kind of thing needs to continue.

3 MS. LENT: Exactly. Alison Rout went to
4 the ICCAT meeting in New Orleans, so it's happening.

5 MR. OSTERBACK: I know both of you are
6 leaving here in a couple of minutes, but for us that
7 are outgoing MFAC members, I think I can speak for all
8 of us.

9 We've all appreciated being able to serve
10 the two terms that we did and also when you go, I
11 think, and look for new members - especially because I
12 think one of the biggest projects you've got going is
13 going to be the aquaculture issue. I hope you look
14 really close at it and pick a good balance of people
15 from all over the country to help with this.

16 Earlier, when you were talking, you talked
17 some about how to - what type of regulating government
18 to use and from Alaska, I'll speak a little bit to
19 that just because two things that we have, we have
20 North Pacific Council and then we have the State Board
21 of Fish.

22 The State Board of Fish uses advisory

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 committees real extensively, so every community has an
2 advisory committee and they're all represented on the
3 state level. Also on the North Pacific Council level,
4 you've already got the scientific panel and your
5 advisory panel.

6 I don't know how you'd integrate this into
7 that to make it work right, but I think you have the
8 vehicle there for it because I think one of the things
9 you want to do is make sure that the states feel like
10 they have equal voice in what you're doing.

11 Because not long ago, Alaska became a
12 state and one of the main reasons for that was they
13 wanted control of their fisheries. To see it go back
14 the other way - so I think you should be really
15 careful on making sure the people that live in those
16 coastal areas feel like they're having a good
17 opportunity to control where it goes and I'm just
18 really amazed you have Uncle Ted to walk you to the
19 alter on this one. I'd like to see the bill.

20 MS. BRYANT: Everybody will be getting a
21 copy.

22 VICE CHAIRMAN HOGARTH: You'll get a copy

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this afternoon.

2 MS. BRYANT: Today. This afternoon.

3 VICE CHAIRMAN HOGARTH: The last thing I
4 want to say, and I'm not coming back. I do really
5 want MFAC to help us set the agenda and to move
6 forward. We've got three years, realistically, at
7 least I've got three years left, and I want to make
8 sure that I leave here having made things better.

9 I want people to really help me set the
10 agenda for MFAC and this movement. We've got
11 commissioners, we saw some of them, but let's set an
12 agenda in this movement forward.

13 Regardless of who gets elected next, and
14 I'll focus - I won't be around, I'm getting too old -
15 but I want to see this one through. I guess we'd
16 better go do the press club.

17 MS. BRYANT: Yes. I need to get these
18 gentlemen in a cab. We are adjourned until 1:00, and
19 then Jack Dunnigan will be here to do the whole update
20 on Magnuson-Stevens reauthorization.

21 (Whereupon, the above-entitled matter went
22 off the record at 11:29 a.m. and resumed at 1:17

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 p.m.).

2 MR. OSTERBACK: Okay. I call the meeting
3 back to order. Okay. We're going to take a vote, who
4 wants to listen to the report or who wants to go have
5 ice cream. No, actually, Laurel's got a few
6 announcements she needs to make, and then we'll go
7 into Magnuson-Stevens.

8 MS. BRYANT: Just a little
9 housekeeping. One, members of the audience, our
10 reporter had a little trouble during the procession
11 hearings, so when we get to the point of discussion
12 and you want to be recognized, if you could just
13 identify yourself and speak loudly and clearly,
14 because you don't have any mikes over there, and so
15 that's important.

16 Number two, if you guys are freezing to
17 death, because we don't have as many bodies in here as
18 we did this morning, if you get really cold, let me
19 know, and we'll go find somebody to turn down the air
20 conditioning or turn up the heat or something.

21 Thirdly, we are going to be missing some
22 folks. They will be joining us later, I hope, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they are attending the conference that's going on
2 right now. Hopefully, people will be dribbling back
3 in and Dr. Hogarth should be back probably between
4 1:30 and 2:00.

5 MR. OSTERBACK: Okay. Jack?

6 MS. BRYANT: Then it's Jack.

7 MR. DUNNIGAN: Alvin, thank you very much,
8 and thank you, MFAC, for allowing me to come back. I
9 regret that because of all kinds of things that are
10 happening, I'm only going to have about this hour to
11 spend with you during your meeting here this week. I
12 came back from San Diego last night and go to Florida
13 tomorrow.

14 What I would like to do is to follow up
15 with you on the discussions that we had at your
16 meeting in Honolulu in January.

17 At that time, I came to you with a
18 presentation that was oriented mainly around a number
19 of the large issues that are involved with the
20 Magnuson-Stevens Act reauthorization and we asked for
21 your comments.

22 We got a very nice report back. Thank you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 very much. We're going to talk a little bit about
2 that during my presentation this afternoon. It's been
3 a very hectic and active couple of months since
4 January, and let me just summarize where we are. What
5 you're going to see in this presentation is a whole
6 lot of what you saw in January, the issues'
7 backgrounds, the considerations, the pros and cons.

8 I didn't change any of that because most
9 of what we talked about in January held up. This was
10 a slide that's been changed a little bit from January,
11 but just as background, the administration has had a
12 bill that was introduced for the 107th and 108th
13 Congresses. The 109th Congress has started anew.

14 We've been going through a complete review
15 of Magnuson-Stevens, not limiting ourselves just to
16 technical comments, and as far as we're concerned,
17 even today, all potential options for statutory
18 revision are open for consideration.

19 We had the discussion with MFAC on January
20 20th. We have the report of your working group. One
21 of the recommendations that you made at the beginning
22 of that report was that we prepare three different

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 reports to help aid in the discussion over the
2 intervening time.

3 Unfortunately, I have to tell you, we did
4 not do that. We weren't able to do it. There just
5 wasn't time, given how fast things were moving between
6 your meeting near the end of January and then getting
7 ready for the Managing the Nations' Fisheries
8 Conference. It was a good recommendation. We just
9 simply didn't have the capacity to be able to respond
10 to it.

11 There was a Managing the Nations'
12 Fisheries Conference, which was held here at the end
13 of March in Washington, D.C. I hope many of you had
14 the opportunity to be there.

15 After that, we collected our thoughts and
16 went and had a discussion at the Council Chair
17 Executive Director's Meeting in April in Dana Point
18 and they have since come out with, on their own
19 behalf, a list of issues and positions that the group
20 of eight councils are concerned about.

21 I think what you'll find is that there is
22 a lot of commonality between the thinking that's going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on inside the Agency today, as well as what they came
2 up with.

3 After that meeting at the end of April, we
4 had a NOAA Fisheries Leadership Council meeting here
5 in Washington in the third week of May and basically
6 came out of that meeting with the advice of the
7 fisheries leadership to Bill Hogarth, and then sat
8 down with him and got his advice as to what he thought
9 the bill ought to include. We then went off, as an
10 internal exercise, with a small drafting committee.

11 I actually was meeting with them right
12 before I came here and we had done some internal
13 vetting of what our views are. I cannot share with
14 you any of that here today and as I told you in
15 January, the scheduling of this meeting was going to
16 be late enough in the process that it would be hard
17 for MFAC to be able to give us advice at this stage
18 that we could use.

19 There is some possibility of Congressional
20 hearings happening in the very near future. We are
21 under a lot of pressure to get a draft administration
22 bill to the department and out of the department into

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 interagency clearance. As I said in January, it has
2 come true. We have had to go ahead.

3 What I would like to do with you today is
4 to review not what's in our bill, because I can't do
5 that, but I think I can share with you what is sort of
6 the current best thinking within the National Marine
7 Fisheries Service as to what positions the
8 administration ought to consider taking on the bill.

9 Now, because of the timing of all of this,
10 your comments, of course, anything you can express to
11 us today and especially to Bill, because we will be
12 getting back to him within the next 24 hours, I hope,
13 is still advice that would be useful.

14 If you have any immediate reactions,
15 that's fine, and we'd be glad to take it, but I'm not
16 asking you, as I did in January, to sit down, have
17 your committee meet, and prepare a report for us. By
18 the time we get that from you, the administration bill
19 will be well out of our hands.

20 It's this discussion right now and
21 anything that you can mention to Bill when you see him
22 over the rest of the day that will be helpful.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The other thing that I would note is that
2 this is going to be a long process. For us, this is a
3 big turning point in the process, where we get an
4 administration bill out.

5 As a matter of fact, there are going to be
6 a lot of discussions in the community at large, with
7 the Senate staff, with the House staff, and we will be
8 required to respond as a part of those discussions.

9 I think as this process continues through
10 this year and it may go into next year, we would
11 certainly, in fisheries, welcome the continuing review
12 and advice of the issues by MFAC and give us some
13 sense as to where you think we ought to be going.

14 That's pretty much where we are now. What
15 I'm going to do now is go through - let me ask you
16 this. Are there any process questions that I've said
17 so far? Okay, Vince?

18 CAPT. O'SHEA: Yes, real quick. It's a
19 little, subtle hint that you just dropped, a long
20 process, so you're predicting not until next year will
21 the Congress be acting on reauthorization?

22 MR. DUNNIGAN: I am not predicting that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and I'm not operating on that assumption. I have
2 heard people say that.

3 CAPT. O'SHEA: Right.

4 MR. DUNNIGAN. We're trying to move. If I
5 knew nothing was going to happen for the next 12
6 months, I wouldn't feel this sense of urgency that I
7 have right now to get this bill out of our agency.

8 CAPT. O'SHEA: Well, that's to get
9 something out, but your forecast of when Congress will
10 probably get to it?

11 MR. DUNNIGAN: My forecast isn't any
12 better than anybody else's.

13 CAPT. O'SHEA: Okay. Thanks.

14 MR. DUNNIGAN: I don't have any real
15 information. As we did in January, I think that these
16 are the issues that I'm going to brief to you. Some
17 of the titles have changed and we'll see how that's
18 happened and that reflects a little bit what our
19 thinking is.

20 As we go through, I'd like to just take
21 them one by one, see if you have any questions or
22 comments, so jump in. Don't wait for me to go through

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this whole thing and then let's go back. We'll try to
2 keep it moving and see if we can get out of here by
3 2:00 and get on with your agenda.

4 Okay. Ecosystem in the Magnuson-Stevens
5 Act. This slide is exactly what you saw in
6 January. Basically, should the law be amended to be
7 more compatible with ecosystems approaches to
8 management and what does all this mean, really, in the
9 context of fisheries and how we do business and the
10 councils.

11 This slide is also one you've seen
12 already, that we were concerned about complicating the
13 process and creating more litigation risks and that
14 the councils and NOAA regulatory processes are already
15 overstretched. We looked at a couple of options that
16 you can have for dealing with ecosystems structurally
17 within the Magnuson-Stevens system.

18 Now, this is labeled Current Best
19 Thinking, and you should take that as being Jack's
20 view. Don't attribute it to anybody else. This is
21 not in our bill, necessarily. Anyway, where we're
22 thinking right now is - and Bill has not necessarily

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 approved any of this.

2 We think that it would be a good idea to
3 have the Secretary prepare guidelines for using
4 ecosystems approaches to management in the fisheries
5 context under MSA. We have that underway already.
6 Steve Murawski has been working with the councils and
7 with others.

8 We've had a number of things going on over
9 many years, dating back to an ecosystem report that
10 the SFA required that we prepare. This is basically
11 just continuing to follow through with that.

12 At the moment, I think we think that we
13 should not be requiring the councils to prepare
14 fishery ecosystem plans, but they should clearly have
15 the ability to do so if they want to and if they think
16 it would be helpful. As a matter of fact, a number of
17 the councils are going that way. Western Pacific
18 Fisheries Management Council is strongly of the view
19 that they ought to be moving towards more ecosystems
20 approaches to management.

21 The South Atlantic Council has been doing
22 a lot of great work with their pilot program. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Caribbean Council is also moving in this direction.
2 We think that the councils ought to have the option of
3 preparing FMPs. We would hope that they would be
4 largely, though, non-regulatory documents. We're not
5 trying to create more opportunities for litigation and
6 for holding the process up.

7 I think we've characterized these as being
8 mainly broad statements of policy that would guide
9 Fisheries Management, unless a council wanted to
10 really take a complete ecosystem approach, and this is
11 what Western Pacific Fisheries Management Council is
12 talking about, going into their island systems and
13 having an ecosystem plan for those areas.

14 It might be possible that the councils
15 would want to include some regulatory measures that
16 would be broadly applicable throughout the ecosystem,
17 like essential fish habitat, rather than specify that
18 if you're in New England, you've got ten fishery
19 management plans. Rather than re-specify it ten
20 different times, just do that once and keep it in as a
21 part of your fishery ecosystem. That's sort of where
22 we are. Bob?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. FLETCHER: The councils continue to
2 struggle with funding, Jack. Is NOAA fisheries giving
3 any more thought to how to properly fund these new
4 initiatives that you're painting with this broad
5 brush?

6 Because I just see the councils getting
7 more and more burdened with these new responsibilities
8 and not being able to really do the work.

9 MR. DUNNIGAN: Well, wearing almost any of
10 the hats that I wear, like as the ecosystem lead to
11 NOAA, I resonate with that comment a lot. Councils
12 are clearly overburdened. They don't have the
13 resources to do all of the things that they would like
14 or we would like them to do.

15 We don't have those resources to give
16 them. That's a fact of life in the world and in the
17 budget climate that we live in today. I think that
18 this isn't going to solve that problem. The way that
19 we're going about this or thinking of going about
20 this, of making these discretionary on the parts of
21 the councils, gives them the opportunity to make the
22 choice as to whether they want to go down that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 road. If a council says, we clearly just can't do
2 that, we can't afford it, we have other priorities, I
3 think that's a legitimate choice for them to make.
4 Chris?

5 MR. DORSETT: You discussed the Secretary
6 preparing guidelines of some of the ongoing efforts by
7 councils to develop ecosystem-based management plans.
8 Are you expecting these current initiatives to be
9 consistent with guidelines you are developing?

10 We have these - like you said, these
11 processes ongoing right now and when Vice Admiral
12 Lautenbacher talked to us today, he talked about first
13 defining an ecosystem. How is this timing-wise? How
14 do you envision it working?

15 MR. DUNNIGAN: Right. The councils right
16 now that are involved in the pilots are very actively
17 engaged, particularly the South Atlantic Councils
18 today are very actively engaged with Steve Murawski in
19 the efforts that he's doing.

20 We wouldn't want to get to a point where
21 the council has invested a lot of time and energy and
22 done something and then we come in later with a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 guideline that pulls the rug out from underneath them.

2 I think that in doing the guidelines, we're going to
3 end up being very sensitive to that and at the same
4 time, trying to move the ball so that we take better
5 approaches towards applying ecosystems approaches to
6 management.

7 That's one of the reasons why our view is
8 that these ought to be non-regulatory documents with a
9 lot of discretion to the councils. Ten ecosystems.

10 The next issue we have is - I have labeled
11 this Rebuilding Fisheries. When you saw this in
12 January, it was labeled, National Standard One Issues.

13 This relates to some ideas that we have
14 talked about for some time of some conceptual issues,
15 lack of clarity between stocks and fisheries, the
16 discontinuity of time in the rebuilding where if you
17 could rebuild it in nine and a half years, you had to,
18 but if it took you ten and a half years, you could
19 have a lot longer time to do that.

20 Trying to make the system work
21 better. The alternatives are the same that we talked
22 about in January. This is something - this is an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 issue that MFAC gave us some advice on coming out of
2 your meeting in January.

3 As we said in our proposed rule, which
4 still hasn't been published, but we did publish a
5 concept document for it on NS1, we continue to believe
6 that fisheries management will be more effective if it
7 focuses principally on fishing mortality rates, rather
8 than biomass. We think that you have to own up to the
9 need to deal with stocks, as well as just fisheries,
10 because that really is where the health of the various
11 components of the ecosystem lives.

12 We're thinking that we need to get on with
13 the business of eliminating overfishing. It's been a
14 very controversial issue, even within the Agency, but
15 at the moment, many of us think that we ought to be
16 able to write a provision that would require that
17 overfishing be eliminated within the next three years.

18 In terms of the rebuilding timeframe in
19 the ten years, ten years has always been recognized as
20 being somewhat problematic. One of the things that we
21 talked to you about was the question of do we really
22 even need rebuilding timeframes for biomass parameters

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 if we're really controlling fishing mortality
2 conservatively.

3 Where we seem to be coming down on that is
4 that we wouldn't want to move completely away from any
5 reference to biomass rebuilding targets, but rather
6 than constrain them by an artificial timeframe, we
7 think they ought to be constrained by some of the
8 natural characteristics of the stocks. We're thinking
9 of something like T_{\min} , which is the minimum time it
10 would take to rebuild the stock, absent any fishing
11 mortality, plus one generation time, as being the
12 target time for rebuilding the stock.

13 If you determined that it would take you
14 ten years to rebuild the stock with no fishing
15 mortality and the generation time was ten years, you
16 would put those together and it would be a 20-year
17 rebuilding.

18 On the other hand, if you had a lot of
19 stocks which are very quick growth stocks and not
20 long-life species, where rebuilding without any
21 fishing mortality could be done within five years and
22 a generation time is two years, then you might only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have an eight-year rebuilding. That's sort of where
2 we're thinking about this now. Vince?

3 CAPT. O'SHEA: Jack, could you just
4 refresh for me what the down side is of focusing on
5 biomass and instead shifting to F? It seems to me the
6 F argument, if there's only 100 fish in the water, as
7 long as you only take out about ten of them and F is
8 about ten, .10, everybody's happy and that's sort of a
9 ridiculous outcome. It seems to me that fish in the
10 water is what this is all about.

11 MR. DUNNIGAN: I think there were
12 considerations like that, Vince, that convinced us
13 that we didn't want to go only to an F-based strategy.
14 That's why we are thinking about continuing to
15 include some biomass-based parameters, but not the ten
16 years, because - and the problem with biomass is that
17 we can't control it. We can control fishing
18 mortalities. We can control fishing - we can
19 eliminate overfishing tomorrow. It would be pretty
20 hefty. I'm not sure we'd ever want to do that, but
21 biomass we can't --

22 CAPT. O'SHEA: You're saying that biomass,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in all cases, will not necessarily respond to the
2 lower F, so therefore, we ought to get off the hook
3 for worrying about it.

4 MR. DUNNIGAN: That's clearly something
5 that you shouldn't be asking a lawyer about. I mean,
6 among the scientists --

7 CAPT. O'SHEA: I'm not trying to debate
8 you. I'm just trying to find out what the logic is.

9 MR. DUNNIGAN. No. Among the scientists
10 in the Agency, there are some diversity views about if
11 you only fish at F and SY, will you inevitably rebuild
12 a stock? I'm not sure that there's a real solid
13 answer.

14 CAPT. O'SHEA: Right, but what's
15 interesting, again, not - I'm taking up too much time
16 already. What's interesting is it seems to me to be
17 going against the ecosystem-based approach to
18 management.

19 In other words, if you're saying that
20 there's more than F that's driving the biomass, but if
21 you have biomass be the standard and it holds the
22 whole system accountable to look at the habitat, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 other things that may be affecting, and now you're
2 sort of - this strategy sort of proposes backing that
3 out.

4 That seems to me - I think we ought to
5 hold the system accountable to the whole range of
6 things that affect the health of a stock. It seems to
7 make more sense and be more consistent with an
8 ecosystem approach. That's just an observation, and
9 again, I don't want to debate it.

10 MR. DUNNIGAN: Yes. Steve?

11 DR. MURAWSKI: I think, Vince, that that's
12 a lot of the thinking that's going on here,
13 particularly as we look at a whole suite of biomass
14 goals, we recognize that there's an overall cap on the
15 amount of biomass that an ecosystem could produce. By
16 relying less on prescriptive management on ten-year
17 timeframes and more on allowing the things to
18 acculturate to where they're going to go in biomass,
19 that's an important goal.

20 On the other hand, when stocks are at low
21 levels and going down the tubes, as you said, you take
22 one out of the stock of ten, that's one, but if you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 taking one out of a stock of three, then you've got
2 minimal biomass problems for just maintaining the
3 stock. You want to have control of the biomass that
4 allows you to be more flexible as the stock is.

5 CAPT. O'SHEA: All right. Thanks.

6 MR. DUNNIGAN: Bob?

7 MR. FLETCHER: You know, I haven't heard
8 you talk about this, but this is important, and that
9 is we're getting better science. We're getting better
10 understanding of what's out there.

11 As an example, cow cod was in terrible
12 trouble, according to the best available science, and
13 they created this massive cow cod conservation
14 area. Then they did another stocks assessment, and
15 the number of the fish in the ocean suddenly more than
16 doubled. Those fish didn't suddenly reproduce and
17 double the size of that population. We got better
18 information.

19 How do you establish some kind of a
20 minimum amount of science so that you minimize that
21 possibility of just not counting all the fish? That
22 goes back to this issue that Admiral Lautenbacher

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 brought up this morning, about the precautionary
2 approach versus risk management.

3 We had terrible science for a long time on
4 the West Coast. It's getting better and suddenly,
5 there's more fish. They didn't just suddenly appear
6 or were produced. They've been there all along. We
7 just weren't counting them. How do you relate the
8 amount of science to this whole approach on rebuilding
9 overfished stocks?

10 MR. DUNNIGAN: That's not a new issue,
11 right? This is something that we have to deal with
12 today and will under whatever parameters are contained
13 in the law. The councils and the Secretary have got
14 to make reasonable decisions based upon the risks that
15 are laid out for them.

16 There are going to be uncertainties
17 associated with the scientific advice that we get and
18 it's going to be a judgment call as to whether you
19 break the uncertainty one way or the other, but you've
20 got to do a smart job of thinking about what those
21 risks really are.

22 I don't think that this really gets

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 affected or affects that basic question of science and
2 the need to make the decision you can based upon the
3 best thing that you know.

4 MR. FLETCHER: You're saying that you want
5 to eliminate overfishing and maybe overfishing doesn't
6 even exist in some stocks that are listed as
7 overfished.

8 MR. DUNNIGAN: And maybe it's worse. I
9 mean, that's risk management, Bob.

10 MR. FLETCHER: Okay.

11 MR. DUNNIGAN: Right?

12 MR. FLETCHER: I guess in most cases, it's
13 not worse is what I'm saying. Based on everything
14 we're learning, the more data we get, the better
15 things look. That's really the reality that we've
16 been going through out there is we're finding habitat
17 that didn't used to exist. It was always there.

18 I'll tell you - and you always say that
19 the glass is half-empty, and in some cases, in many
20 cases, it turns out to be the opposite. There's a lot
21 more than you think. I guess I always want to make
22 sure that that's part of this equation when you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 talking about eliminating overfishing at the cost of
2 the fishermen, when it may not be the case.

3 MR. DUNNIGAN: We could go around on this
4 for a long time.

5 MR. FLETCHER: Sure, we could.

6 MR. DUNNIGAN: Let me move on. The next
7 issue we have. We called this Separation of Science
8 and Allocation. The more we thought about it, we
9 didn't like that term, so we're now referring to it in
10 the context of Science in Support of Fisheries
11 Management.

12 This is an issue that has been talked
13 about a lot. Should the SSCs be setting tax, should
14 they be appointed by the Secretary, and some concerns
15 we had about whether it's really possible to separate
16 the amounts and allocation issues and would this
17 politicize the science community.

18 This is the same slide you saw in January.

19 These are the alternatives that we talked to you
20 about in January. At the moment, our thinking is that
21 we should be establishing guidelines for formalized
22 pay review processes, that - and this may get to some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the issues I think that Bob was just raising - that
2 there ought to be uniform data in permitting
3 processes.

4 Right now, those are specified on an FMA
5 by FMB basis, not even a region-by-region basis, and I
6 think we're at a point of maturity in the system where
7 there can be some uniformity and certainly from the
8 administration standpoint, some efficiency, by having
9 these systems apply across the board.

10 We do think there is a need to clarify a
11 type of observer status and to maintain the
12 confidentiality of observer information. That doesn't
13 seem to be some question about whether information
14 gathered by an observer is confidential under the law
15 and we think that it should be.

16 Then I put this one in here because I did
17 have a bullet that talked about data and permitting
18 and that's the question of recreational fisheries
19 permitting. We are, of course, committed by the Ocean
20 Action Plan to come to the Congress with a proposal
21 for filling out the pattern of state permitting for
22 recreational fisheries. We are hoping to be able to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 include a provision in that regard in the Magnuson
2 reauthorization.

3 Our basic idea is not to have a permit at
4 all, it would be a registration system, and that the
5 basic model would be to work with existing state
6 systems and encourage states that don't have them to
7 adopt them and that we would only actually have to
8 take action in the instance where the state didn't
9 have something that was in place.

10 DR. ROBERTS: Jack, let me ask you a
11 question about the appeal review processes. Are you
12 thinking about that as a peer review of the work that
13 NOAA fisheries is proposing to do in its fishery
14 science and/or a peer review of the results that come
15 out of that science to see whether it really can
16 fulfill the job that it's destined to do? Which -
17 both?

18 MR. DUNNIGAN: I think we're thinking
19 actually of a little bit of both. The model that
20 we've had now developed over the last ten years is
21 basically you have, in the Northeast, you've got the
22 SARC model and in the Southeast, you've got the SEGAR

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 model.

2 On the West Coast, you have the STAR panel
3 models. To different extents, scientific and
4 statistical committees are involved in those. We
5 don't know that there's necessarily one specified
6 approach that has to apply everywhere, but we do think
7 that there are some basic criteria that need to be
8 worked out and that we need to sit down with the
9 councils and figure out what those are.

10 Obviously, where you have relatively data-
11 rich situations where you've been doing assessments in
12 New England for decades and decades and yet, in the
13 Southeast, we're just getting beyond basic
14 characterization and life histories in a lot of these
15 important stocks.

16 There's going to have to be some
17 difference that gets allowed. Right now, I think that
18 in many instances, there is a lack of clarity as to
19 what is scientific advice and, as Bob was saying, how
20 do you weight it and at what point do you look at the
21 risk that's being communicated to you by the
22 scientific community and how is a manager supposed to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 weigh all of that stuff? That's the kind of
2 guideline.

3 DR. ROBERTS: That's exactly where I'm
4 going. If you are going to get more into the risk
5 management approach to things, you'll have to have
6 that peer review inclusive of people who can make that
7 can make that linkage between the results of the
8 science and what it's supposed to be facing in terms
9 of the public decision. You'll have to have some
10 specially-skilled people in that to help you.

11 MR. DUNNIGAN: I don't think we're going
12 to specify very much of this in the statute at all. I
13 think the better approach here is to authorize the
14 guidelines and then we would be incumbent on us to
15 have a public process that we would work with the
16 councils and the community at large through a rule-
17 making to figure out what those ought to be. Pete?

18 MR. LEIPZIG: Jack, on the second bullet,
19 I understand what uniform permitting processes means,
20 but I'm not sure what uniform data means.

21 MR. DUNNIGAN: Well, right now, the law
22 says that each fishery - 303(a), Mandatory

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Provisions - each FMP shall specify the pertinent data
2 that will be submitted to the Secretary.

3 What you get is a lot of inconsistencies,
4 even within a particular region, as a council
5 concludes one type of data in one FMP, a different
6 type of data in another FMP, and it's the same
7 fisherman fishing under two different approaches.

8 It was a good idea in 1976, but we're at a
9 point now where we can I think harmonize a lot of that
10 and have a broader system that applies to everybody.

11 MR. LEIPZIG: This is input data going
12 into stock assessments, not just output data that's
13 summarizing the performance of the fishery?

14 MR. DUNNIGAN: Yes. These are statistics
15 that are collected by the Secretary from fishermen.

16 MR. LEIPZIG: Often it's the case, the
17 devil's in the detail, and I just - I've seen such a
18 variety of different types of data systems that are -
19 people use them because that's all that they have.

20 I've seen Bill collect certain types of
21 information, but beginning time series now are going
22 to reap the benefits 20 years from now and to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 implement some requirement that may be imposing a
2 restriction on what sort of data you can use in the
3 short-term can be --

4 MR. DUNNIGAN: Yes, and we don't want to
5 try to invent something new now. We want to be able
6 to take what we have and make it all fit together
7 better.

8 CAPT. O'SHEA: On the observer status
9 issue, we'll just go right down the bullet points
10 here, there have been two issues that have been
11 kicking around out there. One was compensation,
12 whether they're professionals or technicians. The
13 second was a liability issue. I know on our vessels,
14 we carry two insurance policies for observers,
15 depending on which law we're going to get sued under
16 if they get hurt.

17 There was talk about trying to clarify the
18 law. Is that the scope of what the administration is
19 looking at, both of those two issues?

20 MR. DUNNIGAN: Yes. Actually, more the
21 second than the first. Big diversity of view within
22 the Agency about the first issue. We're still talking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to each other and working that out. Clearly, the
2 liability question is one that we think Congress ought
3 to address.

4 Council appointments. This is, again, a
5 slide that we showed you in January sort of outlining
6 what some of the problems are, or at least are
7 perceived to be in the debate. Some concerns that we
8 raised about inhibiting flexibility to tailor council
9 membership to regional needs. Some alternatives that
10 had been talked about.

11 Here's where we are. It seems to us that
12 right now, the only qualification for serving on a
13 regional fishery management council is that you be
14 knowledgeable about the commercial and recreational
15 fisheries. We think that that can be strengthened.
16 It isn't just knowledge that's important. It's to
17 have a record that demonstrates a commitment to the
18 sustainability of the fisheries that are under the
19 responsibility of the council.

20 The membership requirements that are in
21 the law right now do require us to look at commercial
22 and recreational fisheries. We think that it would be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 appropriate to require the Secretary to look at more
2 than just that.

3 Those still continue to be very important,
4 but also, to come up with council memberships that
5 represent the full diversity of the fishery interests
6 in the area, including non-harvest interests, and to
7 encourage the governors to provide diverse slates of
8 nominees. At the moment, we're not thinking that we
9 could order the governors to give us something in
10 particular.

11 The other idea that we have here is right
12 now, the law requires that there be at least one
13 council member from each state and we're looking at
14 the possibility of changing that to two to make sure
15 that a particular state doesn't always get left out on
16 the short end. In some instances, it requires that we
17 - in fact, in one instance, the Mid-Atlantic, would
18 require that we add one member to the council because
19 there aren't enough secretarial appointees for each of
20 the states to get two seats.

21 MR. OSTERBACK: The North Pacific Council,
22 don't they already have requirements on --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. DUNNIGAN: Yes, the North Pacific
2 Council is a complete thing all its own, because it's
3 very specified in the law where those members come
4 from, so that - the two members from each state
5 wouldn't affect the North Pacific.

6 Okay? Well, we've talked about NEPA and
7 Magnuson-Stevens for a long time, and we're now
8 characterizing this as an issue that relates to
9 alternative processes for complying with NEPA.

10 It doesn't make necessarily a lot of sense
11 to think that we're just going to get rid of the
12 National Environmental Policy Act for fisheries
13 issues, but there may be better ways than we have
14 today for actually meeting what those requirements
15 are.

16 If you look at the testimony that the CEQ
17 gave to the Senate on Magnuson-Stevens
18 reauthorization, they indicated that they think that
19 there are a lot of different ways for going about
20 meeting the requirements of NEPA. This slide
21 basically on the issue is a quick recounting of it.
22 It's the same slide you saw in January and basically,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the same sets of alternatives that we've talked about,
2 possibly amending MSA to exempt or to revise MSA to
3 ensure that NEPA concerns are addressed.

4 We're mostly thinking along the lines of
5 that second bullet, that we can establish a better set
6 of guidelines, including procedural guidelines for the
7 councils to comply with the National Environmental
8 Policy Act, that would give them more clarity and
9 would also give us the opportunity to have a process
10 that worked better.

11 Right now, we have multiple public review
12 processes. We have inconsistent public review
13 timeframes. When you start adding these things
14 together, it's one of the reasons that we're not able
15 to respond to doing fisheries management on a timely
16 basis.

17 We think a better set of guidelines for
18 complying with NEPA is something that we can do.
19 We're suggesting that Congress tell us to do that.
20 Then the other thing is that we want the councils to
21 be able to consider alternative procedures that the
22 Secretary could approve after consulting with CEQ and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 EPA that would allow them to make ongoing decisions in
2 a more timely basis.

3 They would have to make sure that the big
4 three issues that are in NEPA, but not in Magnuson-
5 Stevens, get picked up: alternatives, cumulative
6 impacts, and ecosystems impacts.

7 Also, they would have to make sure that
8 they had appropriate timing and public review
9 opportunities, but if they did that, we think that
10 under that, we're actually complying with NEPA, not
11 avoiding NEPA. We think that they could do a better
12 job to that. I heard a question over here.

13 MS. KATSOROUS: Jack, I had one.
14 Cumulative impacts isn't actually in the statute.
15 It's one of the CEQ requirements.

16 MR. DUNNIGAN: That's correct.

17 MS. KATSOROUS: Okay.

18 MR. DUNNIGAN: That's right. Chris?

19 MR. DORSETT: I'm sorry, I just don't
20 understand. Are you thinking that there will be an
21 exemption for certain processes, or is it just trying
22 to line up timelines better? For example, the specs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 process on the West Coast, where you get a stock
2 assessment and have to do something and then the
3 fishing season starts January 1st.

4 I mean, you can establish guidelines for
5 complying with NEPA, but NEPA's still NEPA.

6 MR. DUNNIGAN: Yes, that's right, but you
7 know, what CEQ's testimony to the Senate said was that
8 our Agency has a lot more freedom to structure how
9 these decisions get made than we've been using. What
10 we're talking about is going back in and trying to get
11 creative in working with CEQ and EPA to - and with the
12 councils, because a lot of these things are going to
13 depend upon the individual context of the council.

14 If you have a control rule, for example,
15 that's going to establish your TAC for a given year,
16 and it's largely based upon scientific input and very
17 little in the way of discretionary review or changing
18 by the council or the Secretary, you can go ahead and
19 implement that with perhaps less public review than
20 you would want to have if you were doing some of the
21 frameworks that we've been doing in the Agency today,
22 where clearly, where the framework is going to go is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 just a - and we're going to talk about frameworks,
2 too, in a second - is just an idea, a direction with a
3 lot of choices that the council has to make, but they
4 should be getting public comment on.

5 It gives us the opportunity to look at
6 both of those and craft something.

7 CAPT. DiLERNIA: I'd like to go back to
8 council appointments if there's no other questions on
9 this. Okay. Two members from each state. You would
10 eliminate, then, the at-large seats, those that like
11 in the Mid-Atlantic, are currently at-large seats.

12 At-large designation would be eliminated
13 and each state would have two obligatory members.

14 MR. DUNNIGAN: Pretty much. There are
15 some councils where there would be another member that
16 could come at-large from any of the states.

17 CAPT. DiLERNIA: The second is --

18 MR. DUNNIGAN: Remember, this at-large
19 obligatory distinction is not in the law. We created
20 it.

21 CAPT. DiLERNIA: To that point, when the
22 governors are asked to make recommendations, they're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 asked to make recommendations for an obligatory or an
2 at-large position.

3 While my council appointment was actually
4 a result of the - I guess you say the list being
5 jumped, going from one, I was listed on one, I was
6 appointed to a separate seat. It seems that at recent
7 times, that the Agency has been reluctant to do that
8 and I think that's a mistake.

9 I don't know if, in your request for
10 nominations, if you just simply - there's two seats
11 open in the state, simply request six nominations and
12 not designate obligatory or at-large.

13 I think that it would lend more
14 flexibility to both the Governor and to the Secretary
15 in the appointment process, because quite frankly,
16 I've seen qualified individuals passed over because
17 they were on the wrong list and councils are a
18 function of their membership.

19 Much of what we do here is a result of,
20 say, the failure sometimes of councils to do the right
21 thing because of how their membership has engineered
22 things. To get quality people, I think you need

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 flexibility there.

2 MR. DUNNIGAN: I don't think we have any
3 disagreement with that statement. That would have
4 been another way of dealing with this. This is where
5 we're thinking of going at the moment.

6 CAPT. DiLERNIA: Okay, so you would - that
7 designation that would be going, the obligatory and
8 the at-large designation?

9 MR. DUNNIGAN: Pretty much, except on
10 those councils where their might be one or two extra
11 seats.

12 CAPT. DiLERNIA: Right. Thanks.

13 MR. DUNNIGAN: Okay. We've talked about
14 NEPA. Dedicated access privileges was not an issue
15 that we briefed to you separately in January. It was
16 listed on our list of other issues. Just to let you
17 know, what we're thinking today, there was a lot of
18 language that created sideboards in our 2003 bill and
19 all of that pretty much still looks relevant to us.

20 Things like who could own quotas and what
21 kinds of analytical requirements are necessary. Given
22 the direction that we've gotten from the Ocean Action

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Plan, we want to make sure that we don't just talk
2 about IFQs, that we talk about dedicated access
3 privileges that can include things like cooperatives,
4 community-based quotas, and area-based quotas.

5 We're not of a mind that it would be a
6 very good idea to have referenda procedures, even
7 though that was in our 2003 bill, and of course, IPQs
8 today are not allowed by the law and we're not
9 suggesting that that be changed.

10 We are considering the possibility of
11 increasing the fee on an IQ. It's capped right now at
12 three percent. The law says that we have to recover
13 all of the costs of administering the program, up to
14 three percent of the value of the fish. We've had
15 some concerns in some fisheries where these programs
16 are very expensive to implement and so we'd like to
17 see the cap on the fees go up.

18 There's one issue that we're still sort of
19 struggling with, and that is this question of the
20 expense of implementing the programs. I'm going to
21 pick on one that I admire tremendously, and that's the
22 Bering Sea Crab Rationalization Program that the North

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Pacific Council did, which was an incredible amount of
2 work.

3 Our staff did an incredible amount of work
4 getting that implemented. You have to admit that it's
5 a very complicated program and if councils feel that
6 they need to craft a lot of special provisions to
7 handle every problem that comes up, you can get very
8 complex and complicated programs that are very, very
9 expensive to implement.

10 Sometimes, we're afraid we're going to
11 find ourselves spending much more money to implement a
12 program than a fishery would really justify. The
13 question of how to get a handle on that and yet, let
14 the councils legitimately have the opportunity to
15 craft programs that meet their needs, is a difficult
16 one and we don't have a good answer for it yet.
17 Vince?

18 CAPT. O'SHEA: Yes, I have two quick
19 questions, Jack. When I see increase fees to five
20 percent, that implies to me an ongoing collect tariff
21 every single year, yet the burden is implementation,
22 which implies to me a one-time cost.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 One of the other issues that's circulating
2 out there is the windfall profit issue to the first
3 generation quota recipients. I'm wondering if that is
4 - maybe there ought to be a connection there between
5 how that - when the first generation cashes out,
6 they're already taxed a capital gains, but I'm
7 wondering if there ought to be a way to transfer the
8 burden of implementation onto that first generation.

9 It just occurred to me as I'm sitting here
10 looking at this. Ten years from now, why you're
11 collecting five percent for the implementation costs,
12 I guess would be the other question.

13 MR. DUNNIGAN: Well, that's not an
14 implementation cost. The law today tells us --

15 CAPT. O'SHEA: No, I understand. I
16 understand that. Right.

17 MR. DUNNIGAN: To recover the cost of
18 administering the program. That's what this is.

19 CAPT. O'SHEA: You're saying that's to
20 cover ongoing, and in addition to that, you guys have
21 concerns about initial implementation costs?

22 MR. DUNNIGAN: Not just initial

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 implementation, but also, ongoing implementation.

2 CAPT. O'SHEA: Okay. Thank you.

3 MR. DUNNIGAN: It's going to cost us a lot
4 of money to implement the Bering Sea Crab Plan.

5 CAPT. O'SHEA: Thanks.

6 MR. DUNNIGAN: Again, I'm not picking on
7 that one. I think that's a great program.

8 CAPT. O'SHEA: I guess I just - some
9 cynics around the world would also say it costs a lot
10 to deal with collapsed fisheries, so --

11 MR. DUNNIGAN: That's right. That's
12 right.

13 CAPT. O'SHEA: Who's paying the burden of
14 that? Thanks.

15 MR. DUNNIGAN: Jim?

16 MR. GILMORE: Yes, I'd just mention in
17 terms of the North Pacific, we're paying about \$12
18 million a year or \$13 million a year now in paying for
19 observer coverage and at least in our fishing
20 cooperative, we pay for a private voluntary bycatch
21 reduction program and voluntary catch accounting, so
22 there are a lot of costs that the industry already

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 picks up when they are involved in - at least in
2 cooperatives, maybe not IFQs. I don't know, but I
3 just ask the Agency to be thinking about credits for
4 private sector costs for monitoring and enforcement of
5 these programs.

6 MR. DUNNIGAN: When we get to the other
7 issues list, and I'll just deal with it very briefly
8 here now, we have been thinking very broadly about
9 questions of cost recovery, not just in DAP fisheries,
10 but in all fisheries, and we're not sure how best
11 right now to deal with that.

12 I think that the considerations that
13 you're raising are legitimately thought of in the
14 overall context of what is it appropriate for
15 fisheries to be paying in terms of the government
16 regulatory program.

17 Secretarial review of frameworks. This is
18 not something that we briefed to you in January
19 either, but we do have language in the 2003 bill that
20 would streamline secretarial review to give us an
21 opportunity to be more responsive back to the councils
22 when they submit documents to us.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 We're picking up most of that language.
2 We're rewriting it to basically make it clearer.
3 We're also going to try to include language that would
4 authorize the councils to do framework actions where
5 appropriate, as long as they make sure that they work
6 into their processes an appropriate issue analysis and
7 public review.

8 This is very much related to the NEPA
9 issue that we talked about a little bit earlier, that
10 councils, when they're preparing for ongoing
11 management of a fishery, ought to be able to say, this
12 type of decision that we're going to make can be made
13 using this abbreviated set of procedures and that's
14 justifiable, but a different decision might need more.

15 If you had a council that had a framework,
16 like the ones that are being worked for the New
17 England Council right now, they could establish that
18 process ahead of time and have it all laid out.

19 It might be a different process for
20 something like 40A, 40B, that have a lot of
21 discretionary decisions and need a lot of public
22 review and issue analysis, as opposed to something

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that might just be stating the specs for next year's
2 fishery. That even may depend on, how much of a -
3 just turn the crank based on new data it is and other
4 councils have some real opportunity to make some
5 discretionary evaluations before they set those specs.

6 This is clearly not a one-size-fits-
7 all. It's clearly not A, B, or C. it is a continuum
8 and we think that the law should allow the councils to
9 come up ahead of time with framework procedures that
10 will work to allow them to do these things on a timely
11 basis, rather than today, which is to try to reinvent
12 the process every time we do one of these.

13 A whole bunch of other issues that we're
14 thinking of including. I'm not giving them any
15 greater treatment here because I think, by and large,
16 they're not as significant. Enforcement. We're
17 thinking of adding judicial civil penalties and higher
18 criminal fines. This is to be consistent with the
19 aquaculture bill that was rolled out today. We're
20 going to try to take the same approach there.

21 We're still struggling with issues on
22 definitions. This is one of the issues that we were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 talking about this morning, as how do we define
2 bycatch. Seabirds today are not included as a part of
3 bycatch. Should they be?

4 We want to try to use the word depleted as
5 much as we can, rather than overfishing, to make it
6 clear that we don't blame fishing for all the problems
7 that our fisheries have. The question of optimum
8 needs to be looked at because of the way that - if we
9 moved the fishing mortality rate based management
10 strategies, the definition of optimum has for
11 rebuilding overfished stocks, a biomass based target
12 in it. That needs some coordination too.

13 There are a lot of other definitional
14 issues that we're picking up from the 2003 bill, as
15 well. The Council Coordination Committee is something
16 that we're thinking of adding to the bill. This is
17 something that two of the councils have formed in
18 order to help us deal with our Federal Advisory
19 Committee Act processes.

20 From our standpoint, we very clearly want
21 to have open, transparent, and collaborative
22 relationships with the councils and with their staffs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and we want to make sure that we have an
2 administrative structure that allows us to do that.

3 Cost recovery study is something that I
4 mentioned a little while ago. We're not sure whether
5 or not we ought to just move in this direction or
6 spend some time doing some analysis of it and this,
7 even within the last day, has been a big issue for us
8 to be talking about. I'm not sure where that one will
9 end up with.

10 There were some North Pacific CDQ
11 eligibility issues that were included in the bill
12 three years ago. They're still out there and we'll
13 try to include those again.

14 There are some improvements that are
15 needed in the fishing capacity reduction program
16 language in Sections 312B through E. At the moment,
17 our intention is basically still just to use the
18 language that we had three years ago.

19 Council member training is an issue that
20 you raised with us. It's one that we in the councils
21 have been both very interested in and we're clearly
22 going to continue our program of training new council

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 members.

2 However, we're still not of a mind, as was
3 recommended in one of the reports, that council
4 members had to take mandatory training or couldn't
5 vote on issues. We would not think it needed to go
6 that far.

7 Questions of essential fish habitat have
8 come up many times. At the moment, we're looking
9 basically at the HAPC provisions that we have in our
10 regulations that are not really a part of the law now
11 and trying to institutionalize some of those as a part
12 of the statute. Vince?

13 CAPT. O'SHEA: Jack, on your enforcement
14 thing, I know on the Atlantic states, I don't know
15 about the Gulf or the Pacific, but the state
16 enforcement guys are interested in getting access to
17 certain Federal law enforcement data, which I
18 understand cannot be shared now due to confidentiality
19 concerns, yet a remedy for that is not listed in your
20 list.

21 Is that because you all are sort of
22 rejecting that request, or is it because that's too

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 far down in the weeds for your presentation today?

2 MR. DUNNIGAN: The latter.

3 CAPT. O'SHEA: Okay.

4 MR. DUNNIGAN: I'm sitting here rummaging
5 through my head. We are looking at the
6 confidentiality language. We would like to --

7 CAPT. O'SHEA: I think the specific - let
8 me interrupt you.

9 MR. DUNNIGAN: Yes.

10 CAPT. O'SHEA: VMS data is one of the
11 things that's come up and it seems to be inconsistent
12 with the Joint Enforcement Agreement. In one hand,
13 there's a Joint Enforcement Agreement Program out
14 there which would say full partnership, and yet in the
15 other hand, saying you can't have it.

16 VICE CHAIRMAN HOGARTH: Also, VMS right
17 now, we can't even give to the Coast Guard or the
18 Homeland Security, either. We've got to look at the
19 whole issue and take time to fix it.

20 CAPT. O'SHEA: Right. I mean, the world's
21 changing obviously and the issue is a public resource
22 and what people are doing with limited resources to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 monitor how they're doing. I guess the other way to
2 turn this around, do we need to communicate to you all
3 our concerns about that, or do you think you got it?

4 MR. DUNNIGAN: I don't know, Vince. It
5 wouldn't hurt if you had a view that you wanted to get
6 to us. Again, this bill is going to be moving from
7 Bill's desk in the next 48 hours.

8 CAPT. O'SHEA: Oh, it is?

9 MR. DUNNIGAN: Yes. I mean, it may be
10 something that we can pick up as a part of the ongoing
11 --

12 CAPT. O'SHEA: Sure, but I mean, if you
13 remember, it came up at the State Director's meeting
14 as well a couple of months ago in Florida. Thanks.

15 MR. DUNNIGAN: Next steps. Again, as I said at
16 the beginning, if there's any thoughts that you have,
17 and we've heard some of those here today, and
18 certainly, Bill, I know, would be glad to talk to you
19 today and tonight, but even more so, I think
20 continuing MFAC advice as this proceeds forward and we
21 end up having to face questions from the public or
22 from the Hill about, well, how would you feel if we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 did it that way? Advice on those sorts of things will
2 continue to be very helpful to us.

3 We're going to be moving the bill through
4 the department to OMB shortly and again, I think that
5 means within the next two days. Then the bill will go
6 to Interagency Coordination, and once that's
7 completed, the Department of Commerce will submit it
8 to the Hill.

9 In the meantime, we're going to continue
10 to prepare for hearings that we anticipate will be
11 happening, maybe in the very short term, maybe in the
12 medium term, but clearly, the Senate and the House
13 both believe that this is an important issue that
14 needs to be talked about.

15 The other thing is that I think that
16 nothing that you've seen in this presentation or
17 nothing that will be in the administration's bill is
18 going to be so dire to us that it's a fall on your
19 sword sort of thing. We're looking to engage the
20 Hill's staffs and the community at large in a broad
21 discussion about what it is we can do with the law to
22 improve the management of America's fisheries.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I think you should look at what we've got
2 here, essentially, as good ideas that we think would
3 improve the bill, but if they can be tweaked or if
4 there are other ideas or some of them need to be
5 dropped, we're certainly open to considering that with
6 the community at large as we move forward through
7 this.

8 DR. ROBERTS: Jack, a point of
9 clarification. Vince asked a question about the
10 discussion, I guess, that goes on a lot about windfall
11 gains. Is there a particular aspect of the bill now
12 dealing specifically with that? No?

13 MR. DUNNIGAN: It's not in the law right
14 now.

15 DR. ROBERTS: I know, but the bill that's
16 come --

17 MR. DUNNIGAN: It's being talked about,
18 but it's not in the draft right now.

19 DR. ROBERTS: Okay. Good. Thank you.

20 VICE CHAIRMAN HOGARTH: This bill will
21 probably move pretty quick. CEQ said they are going
22 to move it - they want a briefing first and some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 further review process internally. The process
2 normally goes, it takes months. This won't take
3 months. They're going to take the bill and move it.

4 They want it on the Hill probably within
5 the next two weeks, which I think is going to be
6 difficult because I guess the Senate is trying to put
7 it's bill out sometime between then and sometime in
8 early July. I'm not sure when, it keeps changing.

9 In fact, I was supposed to meet with
10 Senator Stevens Monday, sort of a behind-the-door
11 locked session with several people, but each Senator
12 gets to bring a person, and I've been invited by
13 Senator Stevens.

14 Jack and Sam Rolk and company have really
15 been working hard and fast on their bill. I got
16 instructions, too, that we were supposed to look at
17 the Ocean Action Plan to make sure that we covered all
18 the things on the Ocean Action Plan, so they've been
19 locked up.

20 They didn't tell me where they were locked
21 up, but I found out finally. I couldn't even get in
22 touch with them. They're working through this.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 They've done a great job, I think.

2 A couple of issues that still bother me a
3 little bit, but I think particularly the rebuilding
4 aspect of it. I'm still not real comfortable in that.

5 I wasn't real comfortable. I haven't seen the latest
6 on the mixed stock thing, but I think we talked
7 through that and maybe found some way to do that.

8 MR. DUNNIGAN: Other thoughts or
9 questions? I encourage you to - I'm heading back to
10 Silver Spring to work on this and some other things,
11 but pull Bill aside. Give him some thoughts. He's
12 got about another - we'll give him another day before
13 we pin him to the wall.

14 VICE CHAIRMAN HOGARTH: Ten minute break,
15 since they've lost my presentation.

16 (Whereupon, the above-entitled matter went
17 off the record at 2:21 p.m. and resumed at 2:31 p.m.).

18 VICE CHAIRMAN HOGARTH: All right, folks,
19 I'm going to give you a quick Presidential Ocean
20 Action Plan review. Probably, you've heard it so
21 much, you don't want to hear it anymore, but we
22 thought maybe we'd at least run through it for you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Basically, you know some of the people
2 that are only asked commissioners. Edna Rosenberg,
3 who used to be with us, was on it. So was Ed
4 Rasmuson, who's on the Council in the North
5 Pacific. Bill Ruffinhouse, who's the first EPA
6 Director. Paul Sandifer, who has worked for the state
7 with us.

8 The final report, the Ocean Blueprint for
9 the 21st Century, came out with about comments from 37
10 governors, 212 recommendations, 60 of them which
11 relate to NOAA and 26 of them really to National
12 Marine Fisheries Service. The report does recognize
13 NOAA as the nation's lead civilian ocean agency, and
14 so it's a good point there.

15 The final report had about six action
16 areas. One of them was ecosystem-based management,
17 improved governments, sound science, education, and
18 support for implementation, and then some really
19 broad-based recommendations.

20 The administration, on December 17th, came
21 out with its response, which is called the Ocean
22 Action Plan. Henceforth, we were to speak of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Ocean Action Plan and that's what we're dealing
2 with. There is a government's group that's set up
3 here.

4 The AQUA box here - first off, as a
5 committee on ocean policy, which is led by CEQ, which
6 is a Cabinet-level position. Then AQUA box in the
7 middle is basically - people like the Vice Admiral
8 sits there. Then in these two blue boxes, one is
9 called SEBOR. The one on the right, looking at it, is
10 really living resources aerial and that's CEQ plus
11 from NOAA is Mary Blacken, but Rebecca Lent, who's our
12 representative on that panel.

13 All of this stuff supposedly goes through
14 this process and it's been divvied up as to where you
15 will be looked at by which group.

16 The things that we are dealing with really
17 fall into three groups: enhancing the use of
18 leadership coordination; enhancing the use of the
19 ocean, coastal, and Great Lakes resources; and
20 managing the coastal wetlands.

21 I know the ocean leadership is improving
22 Federal coordination. There has been an Organic Act

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 introduced which sort of lays out where NOAA fits into
2 the government process.

3 The thing about the NOAA Organic Act which
4 has been introduced which people have not picked up a
5 lot is I'm not sure what fisheries it is. It's not in
6 this Organic Act, and so we've got to figure out where
7 we belong if this Act is passed and establish some
8 working groups.

9 There is some support, even though it
10 doesn't set up any regional groups as such, there is
11 support for regional collaborations to the Great Lakes
12 task force or there are some cooperative conservation
13 groups set up and they advance regional fishery
14 management to the councils.

15 Enhancing the use of conservation of the
16 ocean is achievements, sustain marine fisheries,
17 promote coral conservation, enhance the protected
18 resources, and of course marine protected areas and
19 the offshore aquaculture.

20 The offshore aquaculture was submitted to
21 the Hill this morning. We'll see where it goes from
22 there. There's a lot of interest in the --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. KATSOROUS: A lot of positive
2 interest, Bill?

3 VICE CHAIRMAN HOGARTH: There was a lot of
4 caution. Most of the people there honestly - the
5 calls had all seemed to come from Alaska. That seems
6 to be - I think Alaska is confused that Senator
7 Stevens expressed some concern when they sponsored the
8 bill.

9 I think there was a lot of caution as to
10 why and really, the competition questions kept coming
11 up as to which species. I think it's a real concern
12 about which species you allow this to happen.

13 As far as the Ocean Action Plan
14 commitments, NMFS has a lead on these issues, such as
15 new national bycatch strategy. The Ocean Commission
16 still doesn't think we've moved far enough on the
17 national bycatch.

18 The Gulf of Maine, habitat restoration,
19 questions about the regional fishery management
20 councils, the balance. That's a tough issue, when you
21 talk about balance, when you look at various regions.

22 The regions themselves have different

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 characteristics and just to say we've got three
2 commercial and three recreational, six members, to me
3 it really doesn't reflect balance, so to speak, of
4 where the fisheries are operating

5 We've have to keep looking and keep trying
6 to promote the - if you look at the breakdown of the
7 councils, they pretty much are, I think, right now,
8 representing the type of fisheries that we have in
9 each region.

10 The market-based system for fishery
11 management, we'll do dedicated access, a lot about
12 deep sea corals. In fact, we have to put together a
13 deep sea coral plan, but this might be moving in that
14 area. Guidelines for use of science in fishery
15 management. We're working on that. Steve Murawski's
16 already got that underway.

17 Then we have Kobe with several others. To
18 advance the use of large breed ecosystems. We are
19 totally with the Department of State. It's sort of
20 interesting that the Department of State is concerned
21 about large marine ecosystems.

22 National Marine Turtle Conservation, we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 share that with the Department of the Interior and on
2 down. You notice that when they talk about
3 aquaculture in loose legislation, but a separate
4 requirement for us to establish aquaculture after the
5 guidelines with EPA.

6 I believe it would have to be done through
7 the regulations or through this. We have to develop
8 those later. Marine Protection Act. Mammal
9 Protection Act. Reauthorization. We already got a
10 bill to do that.

11 The Department of the Interior wanted to
12 be involved in the advancing of the regional fishery
13 management. Interesting that the Department of the
14 Interior came out in several of these and wanted to be
15 involved, such as IFQs and some other issues that they
16 were adamant that they be involved in, so they are.

17 MR. SCHWAAB: Just a quick question before
18 you leave that. On that aquaculture implementation
19 guideline, is that above and beyond the rules that the
20 EPA just published, what, six or eight months ago?

21 VICE CHAIRMAN HOGARTH: That's what we
22 tried to clarify, but it looks like it may be. It's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 suddenly clear, if we look at offshore, we look at
2 that line of flow. We haven't worked out the details
3 of this with the EPA. We just started talking to
4 them. This is what we will be doing.

5 Managing the coasts and the watersheds.
6 It's a coastal watershed management. There are issues
7 there. There's a wetland initiative, invasive species
8 and then, of course, the water pollution reduction,
9 which these areas, we have very little - as far as
10 fisheries are concerned, we weren't assigned any of
11 these.

12 The future actions as far as Congressional
13 is that there will be some more oversight hearings on
14 the bill and what Congress will do. There's, I think
15 I heard yesterday, 35 bills to do with the ocean
16 already introduced in one House or the other.

17 Reauthorizations. You've heard about
18 Magnuson-Stevens, Marine Mammal Protection Act, marine
19 sanctuaries. All of these are up for reauthorization
20 and then of course, the Organic Act has already been
21 introduced. Aquaculture is there. Of course, we
22 always put up appropriations. I don't know why.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 What we have to do now is develop a
2 committee on ocean policy and they will look at an 18-
3 month work plan. We've identified some areas, but now
4 we'll go back into the report and see if there are
5 other things that need to be pulled out and
6 done. Then we'll determine the resource needs and
7 Agency-specific actions.

8 They've all been assigned. They're all
9 underway. We all have a timeframe to finish them.
10 Like I said, we had 26. The only one I have to deal
11 with, for some reason, is council. We deal with that.

12 That's it. It's basically, the President
13 put it out and we're working through it. There's no
14 real regional bureaucracy that has stood up. This
15 governor's group has had one meeting. I think all the
16 Secretaries attended. It was an hour and 45 minutes.

17 I went up there and discussed it with all of the
18 Secretaries. In the Magnuson, what we're doing
19 reflects the Ocean Plan. That's it. Any questions?

20 MR. FLETCHER: Bill, one of the Ocean
21 Policy Commission recommendations was to double the
22 funding for science. Is anybody supporting that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 approach or anything like that?

2 VICE CHAIRMAN HOGARTH: There is some
3 talk. The administration went and sought the trust
4 fund, of course, but there is some talk about trying
5 to look at increasing funding for science. It's just
6 the budget that says, things are tight, and I think -
7 I don't know what'll happen.

8 MR. FLETCHER: We used some things called
9 unfunded mandates in the State of California and we
10 actually got people to listen to us a little bit. I
11 don't hear any of that in all of this. I see just
12 huge unfunded mandates there.

13 VICE CHAIRMAN HOGARTH: Well, Bob, it
14 is. Leadership. We have the leadership, which is all
15 of the office directors in science. We talked about
16 that last week, or two weeks ago, when we had that
17 meeting, is that when we put in an IFQ program,
18 Congress says they want - the administration said, we
19 want two per region.

20 I believe to work well, that's put on the
21 councils, first off, and the money they're getting,
22 but they have to do all that work. Then, we have to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 implement it. There's no money.

2 Somehow or another, sooner or later, we
3 will have to put a price tag on even fishery
4 management plans that say, this plan costs this much
5 money to implement. We have to put some priorities,
6 because the money's not going to increase. We're not
7 keeping up with the costs. RECFIN, HACFIN, data
8 collection, we're not.

9 Someday or another, you can't keep adding
10 to it without stopping something or flagging it.

11 MS. KATSOROUS: But Bill, in the House
12 side, the Appropriations Committee cut NOAA. What was
13 it, \$496 million?

14 VICE CHAIRMAN HOGARTH: With NASA and NSF
15 and --

16 MS. KATSOROUS: Which both got
17 increases. If you wanted the Organic Act, it was
18 introduced at the House side by the Science - it was
19 cashed by the Science Committee. The Resources
20 Committee held a hearing and again, there isn't a
21 fisheries provision. In the Senate, the Organic Act
22 has not even been introduced. I don't even know if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 anybody's planning on introducing it.

2 MR. SCHWAAB: Bill, I was looking back
3 through here and there were a lot of comments from the
4 governors. I'm looking at, for example, this big
5 Federal coordination and government structure and I
6 think that's all great. I'm just wondering if there
7 is a formal mechanism being established for direct
8 involvement and interaction with the states and/or the
9 regional interstate entities, like the Commissions, or
10 is that presumably happening through the individual
11 Agency?

12 VICE CHAIRMAN HOGARTH: It is going to
13 happen through this process. The governor in Rhode
14 Island was the one that came to the first meeting.

15 In the Gulf, Governor Bush has called all
16 the governors in the Gulf and they have set up a
17 process, the best time to work through the issues,
18 sort of. We seem to be taking different approaches
19 and different regions, but it is a mechanism through
20 the AQUA box there that they're going to try to bring
21 the governors into - get that comments and bring it in
22 to him.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. SCHWAAB: SAR?

2 VICE CHAIRMAN HOGARTH: SAR. It's
3 different. Three's part of the behind-the scenes
4 right now. You don't move again to move all of NOAA
5 or part of NOAA to the Interior. The Interior thinks
6 that they will do a much better job managing the
7 fisheries and some of the endangered species, or that
8 we did.

9 It would be less problems for people if
10 they take over. That has been so quiet, now, that it
11 seems to be a real discussion that's going on on the
12 Hill. It's where our future may be. Anybody?

13 Well, we'll just keeping working with
14 this. I don't know that there's anything else that we
15 could - that MFAC can do on this, except - I think
16 aquaculture's got something. We need to continue to
17 have a dialog and those that went this morning heard
18 some of the discussions. I think that I need that.

19 Steve will talk to you soon about the
20 ecosystems and the science aspects there. NOAA - the
21 Magnuson reauthorization, I think, was extremely
22 important. I thank Senator Stevens and it's really an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 accomplished committee, I really tried to look at not
2 real - I know Senator Stevens and everything they put
3 on it - his question is, well, will this cause more
4 losses?

5 I think he's looking at Magnuson to make
6 sure we don't get more losses.

7 MR. FORSTER: Just on the agriculture
8 thing, one of the things I didn't pick up this morning
9 or later was that a major part of the micro program,
10 should the legislation go through, is an outreach
11 effort into the regions to actually build these
12 regulations. That didn't seem to come through.

13 I didn't want to - it's a prelude to the
14 regulations, but the outreach efforts can become
15 another part of this mission for the next couple of
16 years.

17 VICE CHAIRMAN HOGARTH: That we're not
18 talking about going over. We have got to get some
19 people in the regions to work on this. There's no
20 doubt. We could do it and it's all in the shoestring,
21 but if we could get this bill - seem to get enough
22 support on the Hill, then we're going to have to get

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 someone in the regions to help coordinate and move
2 this.

3 We're not going to be able to do it all
4 from here. It's got to be coordinated in the region.

5 MR. FLETCHER: Bill, I didn't hear much on
6 the MMPA reauthorization. Has that kind of fallen
7 down to a lower priority?

8 VICE CHAIRMAN HOGARTH: Well, the
9 administration's got a bill, and that's pretty much
10 what you saw last year. I think we can probably get
11 copies. It's on our website. It's the same bill.

12 To be honest with you - I probably
13 shouldn't say this in front of Dave, but Dave and I -
14 I don't see what's happening on the Hill right now.

15 MS. KATSOROUS: But you passed the house
16 dinner date. We have the resources --

17 MR. PARTICIPANT: It came out of the
18 resources committee. We've got - in the last
19 Congress, we had two bills. One was a comprehensive
20 bill that was controversial. We had to pare it down
21 to just the non-controversial stuff. The committee
22 just passed out the non-controversial version. We

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 should be going to the floor, hopefully before our
2 audit. Big bill, with the controversial stuff that's
3 on hold.

4 MS. KATSOROUS: Well, since Dave's here -
5 Dave, are you all planning on taking fisheries out of
6 NOAA and making it like the Small Business
7 Administration in the Commerce Department?

8 MR. PARTICIPANT: It's still being
9 debated. There was a bill last year that would have
10 taken all of NOAA and moved it to the Department of
11 the Interior. It hasn't been reintroduced this
12 Congress, but that debate on how fisheries and natural
13 resource management stuff should be set up within the
14 Federal Government is still ongoing.

15 VICE CHAIRMAN HOGARTH: Okay? Well, I
16 guess Steve, we'll give you the floor. I will be
17 leaving briefly. I have to do work on council
18 appointments, which are due in another two weeks. I
19 have to see the Secretary in the morning, so I've got
20 to work through a couple of issues there.

21 I'll be back later this afternoon, but
22 I'll be in the building and around. As I told you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this morning, Steve --

2 MR. KRAMER: Bill, what are we doing about
3 MFAC appointments?

4 VICE CHAIRMAN HOGARTH: We're going to
5 talk about it. You won't be here, though.

6 MR. KRAMER: That's somewhere? I didn't
7 see it on the --

8 VICE CHAIRMAN HOGARTH: Thursday?

9 MS. BRYANT: Yes, part of the strategic
10 plan. We haven't gotten the solicitation out yet, but
11 we're hoping in the next month. It's just getting
12 through these meetings and this week and then we'll
13 get a solicitation out.

14 MR. KRAMER: Okay.

15 MS. BRYANT: It is six vacancies,
16 though. Six?

17 VICE CHAIRMAN HOGARTH: Six.

18 MS. BRYANT: Absolute vacancies.

19 MR. OSTERBACK: What about all of us who
20 were first term or first term is ending?

21 MS. BRYANT: The only person we heard back
22 from, that Bill and I heard back from, is Elizabeth

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Sheehan is not interested in running again, so she
2 will not be reappointed. She's not interested.

3 MR. OSTERBACK: So, if your term is
4 expiring, you need do nothing or advise you - I mean,
5 what --

6 VICE CHAIRMAN HOGARTH: Unless you don't
7 want to serve.

8 MR. OSTERBACK: Okay.

9 MS. BRYANT: If you don't want to serve,
10 it's important for Bill to know.

11 VICE CHAIRMAN HOGARTH: Anybody that
12 doesn't want to serve, let me know. I hope there's
13 not anybody. Chris, you don't want to serve?

14 MR. DORSETT: Yes, I'll be moving back to
15 the Gulf of Mexico region, so as far as your regional
16 balance you're trying to achieve, I'll be back there
17 by the next meeting.

18 VICE CHAIRMAN HOGARTH: But you're the
19 only one so far that's been attending, so we need to
20 make a deal. I know you must feel --

21 MS. BRYANT: WE don't have any people in
22 the Gulf.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRMAN HOGARTH: Steve? As I told
2 you this morning, Steve, as of Monday morning, will be
3 replacing Mike Sissenwine. Steve is a tremendous man
4 of ability and talent and he's really one of the
5 better people I've seen to sit down and discuss these
6 issues and work through them. I look forward to lots
7 of help.

8 MS. BRYANT: I also, just to mention to
9 everybody if they don't leave the room, I better hurry
10 without getting a hint of the aquaculture packages
11 with the legislation in it, so I've got those for you.
12 Steve, you're doing ecosystems first, right?

13 DR. MURAWSKI: Well, thanks for the
14 opportunity to come down. What I wanted to do was to
15 follow up a little bit on some of the issues that he
16 started to raise with Jack a little bit about
17 ecosystems. There is, I would say, a number of issues
18 afoot on ecosystems and there has been quite a bit of
19 debate going on internally about how to incorporate
20 this in the revised Magnuson, and a lot of debate back
21 and forth of the different options.

22 A lot of interest in the councils. Three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of the fishery management councils already have
2 fishery and ecosystem plan type things ongoing. The
3 North Pacific Council, of course, is, in their usual
4 way of charging right ahead, they're adopting
5 ecosystem principles and a lot of measures that are
6 related to ecosystems.

7 The Western Pacific Council, being a
8 little more deliberative, they are holding a bunch of
9 workshops to try to look at how to incorporate
10 ecosystem things in their work.

11 They have a unique situation where in the
12 Northern Hawaiian Islands, it's all supposed to be a
13 large sanctuary. Trying to figure out how to deal
14 with sanctuaries and fishing at the same time is a
15 unique effort there.

16 South Atlantic Council has a work plan,
17 which is basically using the EFH provisions and
18 bootstrapping up to ecosystems. They've gone and done
19 a lot of thought about how to incorporate ecosystem
20 principles in their FMPs, how to pull them together.
21 They used a guidance that was issued back in 1999 as
22 the kind of blueprint for what they're doing. They

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have a lot of people that work in the area and done a
2 lot of things.

3 We've had a lot of interest in the
4 councils. As these processes are developing, what we
5 don't want to happen is eight different versions of
6 what ecosystems are.

7 What we thought about a little bit is to
8 pull together some guidelines and guidance, with
9 people already involved in the process, and hopefully
10 to broaden out this guidance seeking process a bit so
11 that we get the best thinking from everybody.

12 Basically, what I'm here to do today on
13 this topic, and there will be another topic on
14 science, is to talk a little bit more about sort of
15 the evolution of the existing approaches to fisheries.

16 A little bit of background.

17 Some topics that are coming up over and
18 over again as we talk to different groups, the content
19 areas for guidelines. To talk about a little bit of
20 the status of some of the ongoing ecosystem projects
21 that are going on, there's a number of efforts,
22 including some pilot money that's out there with four

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Atlantic Councils, the ongoing issues with some of the
2 FMCs and their strategies for moving forward.

3 Then also, to basically engage you on the
4 discussion of some strategies for ecosystem
5 guidelines. If the group here has some thoughts about
6 this, this is very - this process is not very far down
7 the road, so if there are some things that MFAC wants
8 to contribute on this, they would be quite welcome
9 because, as I said, this is not a done deal by any
10 stretch of the imagination.

11 In terms of ecosystem thinking, I'm sure
12 most of you are aware that NOAA has this sort of
13 shadow structure of ecosystems and Jack is the leader
14 of what we call the ecosystem goal. Within NOAA, we
15 have all these issues and NOAA and Congress deal with
16 all these issues one at time. It's a fisheries issue.

17 This is just the Gulf of Mexico, but all
18 of the issues that we have in regional ecosystems are
19 the same. We're dealing with, in the case of the
20 Gulf, you've got these unique issues of wetlands,
21 loss, and runoff down the Mississippi, the creation of
22 hypoxic areas in the Western Gulf. In that area,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 particularly energy development is a really important
2 issue and one that's taking on more importance or
3 potential for L&G facilities there.

4 We have a whole range of protected
5 resources to choose and as you get to the Eastern part
6 of the Gulf and out into the keys, you've got major
7 coral reef issues and sanctuary issues there.

8 Trying to take these issues on one at a
9 time is just a losing toss, because you can't - you
10 don't have enough money and when you think about it,
11 these are interrelated issues. When you've talked
12 about harmful algae blooms and agricultural runoff and
13 nutrients coming down the Mississippi, those are, part
14 and parcel, the same issue. If you try to solve one
15 without looking at the other, you're fighting
16 yourself.

17 If course, there was a whole set of scales
18 of natural variability, particularly in the Gulf,
19 where we've got natural variability created by things
20 like hurricane events, etc. It's logical for us to
21 start looking at it from the ecosystem approach.

22 Now, this certainly makes the case that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 ecosystems go far beyond fisheries, and this is the
2 split that we're getting now, between an ecosystem
3 approach to management, or EAM, as opposed to an
4 ecosystem approach to fisheries, which is a much more
5 confined set of issues.

6 The guidelines that we're trying to work
7 on within fisheries are very much the EAF part of
8 this, not the EAM, just because you can't eat an
9 elephant all at once and we'll try to do this on a
10 discipline basis, and if it's more within the model of
11 what the councils are charged to do in terms of
12 dealing with this.

13 The comments I have basically are in the
14 ecosystem approaches to fisheries aspect of this.
15 Now, obviously, there are a number of definitions and
16 these are more or less the definitions that most of us
17 in NOAA are trying to work with. This concept of
18 geographically-specified system is one that's really
19 the basis of the model that we're trying to pursue and
20 we'll talk a little bit about carving up the coast a
21 little bit.

22 Using this large ecosystem definition as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 one approach to pull the issues down to a regional
2 basis is important and then also trying to look at not
3 only the harvesting aspects, but also the physical
4 processes that control the dynamics of the resources
5 is important.

6 Fair enough. Now, to this issue of EAF
7 versus EAM, obviously, we all - those of us who work
8 in fisheries every day know that there are a
9 tremendous number of ecosystem-related issues within
10 our own sector, the upper left-hand sector of
11 fisheries management. A lot of jurisdictional issues,
12 a lot of species issues.

13 Then, we also know, but have little
14 jurisdiction, over the other three areas that are
15 important. So, for example, water quality management.

16 We know that water quality management is very
17 important for inshore species and degradation of water
18 quality has led to some problems in availability and
19 abundance.

20 We have no control over that in the
21 fishery management institutions that we have, because
22 our role is basically one of consultation. We can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 provide input on water quality projects. We can
2 provide input on coastal modifications, but we don't
3 have any direct decision-making authority there.

4 That's a problem and I think with the
5 graphic that Bill showed you before about the ocean
6 government system, there is a move afoot to see if -
7 even though we may not have the direct authority to
8 start coordinating Federal Agency responses around
9 this so that where there are concerns of water quality
10 and coastal modifications and they are directly
11 impinging on fisheries, that there's a higher bar than
12 there is right now, which is basically this
13 consultation bar.

14 We're going to have to see how that
15 process works. The people in fisheries that are
16 involved in this, and Rebecca Lent, who I think you
17 all know, is one of NOAA's members on this, along with
18 Mary Blacken, who is the co-chair, this is what
19 they're all about right now is to try to work with the
20 Department of the Interior, the Department of Defense
21 through the Corps of Engineers, to see if we can come
22 up with better institutions to affect this.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 If people have questions or problems, just
2 fire them out.

3 MS. WYNNE: I was just wondering, are you
4 saying you're detached from protected resources, or
5 that's the future, or --

6 DR. MURAWSKI: No, not at all. This is
7 sort of an interaction diagram. We know that what we
8 do in fisheries heavily impacts on protected resources
9 by first - the top two boxes are most of our - we
10 control a lot of the interactions here because we've
11 got M and PA on one side, ESA, and then fisheries. We
12 can do a lot within NOAA to talk, but some of the
13 other diagrams, we have big problems with.

14 Okay, so in terms of incorporating some
15 ecosystem considerations into fisheries management, we
16 have a number of questions that keep coming up over
17 and over again, and they are, sort of, what are the
18 important objectives of an ecosystem approach to
19 fisheries?

20 That's a sort of what is it game and we're
21 kind of victims of our own success, because we've
22 sold, through the Ocean Commission and other places,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this ecosystem approach, but that's about as far as
2 it's gone.

3 We're actually trying to deliver - what is
4 the deliverable here? I think, when we're trying to
5 write regulations and get - this is time that we got
6 very explicit about what we considered to be
7 objectives in the ecosystem approach.

8 That's an operating question that we've
9 got. The second is, to what extent are these
10 addressed now? As I said before, one of the councils
11 are already taking upon their own authority, the
12 authorities they think they have or that are
13 sufficient in the current acts to go ahead and move
14 this way. The parallel question, of course, is that
15 if in fact the councils have all the authority they
16 need in order to do this, then why do we need anything
17 extra? That's an operating question.

18 The third question is, what ecosystem
19 objectives would not be adequately addressed under the
20 conservative single species or the current FMP by FMP
21 approach. What are those issues that lie outside the
22 boundaries that we've got now? We've had a lot of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 debates from various people about that.

2 Last, how could various strategies
3 facilitate better, more consistent implementation of
4 ecosystem approaches? This is this issue of, do we
5 develop eight different approaches to go with the
6 councils, or do we do this in a consistent way with
7 some guidelines? This is helping us to address the
8 ecosystem approaches to management, as well.

9 In terms of the meetings that we've had so
10 far, and we've had a slew of meetings. It started
11 with the Managing Fisheries II Conference that we've
12 talked a little bit about this and we've basically cut
13 a splinter group off to work with the councils to try
14 to get our arms around what are those pivotal issues
15 that when we talk about EAF, what do people need to
16 talk about?

17 We've got really eight or nine issues that
18 people have talked about. The ninth issue is, all of
19 the councils and most of the people that are actually
20 at the operational end, have talked about in order for
21 us to do ecosystem work, we really need an inventory
22 of what data, information, etc., holdings exists.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 It's not just a Federal inventory, but an
2 inventory from all the potential partners and
3 cooperative states, universities, etc. This is really
4 sort of implicit in an ecosystem approach, that you
5 draw data sources together.

6 That's sort of the ninth. In terms of the
7 sort of operational objectives for ecosystem
8 approaches to fisheries, the things that seem to
9 resonate over and over again with the bar, first of
10 all, of course, conserving and managing the species
11 and we focused primarily on Magnuson and other fishery
12 management arenas on proving status of the target
13 species.

14 We've got fishing mortality rate and
15 biomass targets for each of the species, and that
16 seems to be pretty well in hand for most of the major
17 stocks.

18 The other end of the spectrum, we have
19 these PDT species, protected, endangered, or
20 threatened species. We have standards for measuring
21 of those as well. We have optimal population sizes,
22 we have maximum kill rates, etc. But there's a whole

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 series of species in the middle where they're not
2 necessarily targets of fisheries.

3 They are potentially impacted by
4 fisheries, but if in fact there is no yield coming off
5 of a wide array of species that we've got, we can't
6 very well have it be Maximum Sustainable Yield,
7 because there is no Y.

8 What are we going to do for that range of
9 species in the middle? There's been a lot of thought
10 about how to incorporate some sort of measures of
11 population success or population size or monitoring
12 trends of this whole array of species that's in not
13 quite bad enough condition to be called PET species,
14 but not fishery targets, as well.

15 That's certainly one area that people are
16 talking about. The second one is this whole notion of
17 bycatch. When you think about it, just from a
18 managing population standpoint, that's really in the
19 conservative managed species goal. When you look at
20 statistics on what you're killing and you look at
21 population sizes, as long as you've got good
22 monitoring, you should be able to handle that within

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the conservation rules that you're trying to
2 establish.

3 There is this whole issue of public
4 perception of minimization of waste that really brings
5 bycatch up as an issue unto itself. We hear it over
6 and over again. It's really a code word.

7 The third issue up there is a whole array
8 of what we call managing tradeoffs and I guess a good
9 example is - I'll pick some New England examples,
10 because I'm just mostly familiar with them. When
11 you've got competing FMPs, for example, they share a
12 bycatch species. In New England, there's a ground
13 fish FMP and a scall FMP. The scall fishery index on
14 some of the young animals that are ground fish.

15 How do you manage the rules for
16 determining what the best overall fishery policy is,
17 when you've got - the fact that if you tried to
18 optimize each of these fisheries individually and
19 they're connected by bycatch interactions, you can't
20 maximize everything.

21 The rules right now are, each of the FMPs
22 develops their regulations as if the other one didn't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 exist. They go to the council floor and there's a big
2 fight that goes on and some vote is nay. It's not
3 necessarily that way in all councils and that's
4 probably an oversimplification, but there certainly
5 has been a lot of thought about some guidelines for
6 what represents the best national interests or the
7 best regional interests in those kinds of situations.

8 It becomes more important when you're
9 trying to deal with wider and wider sectors of people.

10 I mean, that's a simple example of one fishery sector
11 competing with another. When you think about it, we
12 should be putting ourselves in a position to manage
13 tradeoffs in the fishery sectors and with other
14 sectors, as well.

15 If we start thinking about this, perhaps
16 we can start thinking about non-market valuations and
17 other things that would come into managing a more
18 diverse stakeholder group.

19 It comes up over and over again,
20 recreational versus commercial, for example. We hear
21 that over and over again about how do you manage for
22 national benefits? Is it always financial? Is it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 jobs? Is it food production? Those are the kinds of
2 things that we need some tools to work in in terms of
3 managing tradeoffs.

4 I just wanted to give one example of a
5 non-target, non-commercial species that might be a
6 species.

7 This is another example, this is a
8 barndoor skate, and these are abundant tendencies over
9 about a four-year period. You can see that the stock
10 really tanked and it was never a commercial species.
11 They never landed it.

12 There was some intense foreign fishing to
13 put the stock down, and then for whatever reason, it
14 never really recovered until it was substantial
15 reduction of effort for the target species. The
16 question is, now it's actually part of an FMP because
17 we narrowly avoided a listing under Endangered Species
18 Act for this one.

19 The idea here would be to monitor these
20 stocks so that we avoided - when stocks looked like
21 they were getting into trouble, try to avoid them
22 going to that status that we have to be there.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 In terms of the other candidate objectives
2 for ecosystem approaches, the fourth one is accounting
3 for feedback effects, and feedback effects are things
4 like predator/prey relationships, where you're
5 managing the predator and the prey simultaneously.

6 Bill and I were at a recent meeting up in
7 the Maine Fishermen's Forum and it was sort of a
8 classic one where we had a range of people interested
9 in bluefin tuna, a predator, and another array of
10 people interested in catching the prey, an Atlantic
11 herring.

12 You have two major sets of groups looking
13 at - basically, harvesting predator/prey systems.
14 Obviously, you can't maximize everything in a
15 situation like that, so getting more information on
16 these feedback effects as they effect predator/prey
17 systems is important.

18 The other major class of feedback effect
19 that people are looking at is direct gear impacts on
20 the productivity of habitats. All the councils have
21 looked at this in greater or lesser degree of detail,
22 managing the habitats, managing the gears that are in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 contact with the bottom to try to minimize their
2 impacts on essential fish habitats.

3 This is an issue that certainly won't go
4 away. We'll be seeing more and more interest in
5 direct zoning of the ocean bottom or to look at this
6 potential feedback effect.

7 The fifth issue is establishing
8 appropriate ecosystem boundaries. How do we actually
9 draw an ecosystem boundary? I'll talk about this one
10 in a minute. Right now, when you look at the council
11 authorities, for example, they're state by state, so
12 the group's a state, but they don't necessarily have
13 any ocean water boundaries too, then.

14 For example, in the Northeast, you have
15 two councils. You have this array of water and
16 they're actually managing species in overlapping water
17 areas. When we go to an ecosystem approach, that
18 means that you're taking a more exclusive view of a
19 body of water.

20 How do you actually interface a council
21 management system, which is state by state or fishery
22 by fishery, with the fact that you want to be more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 explicit about managing a body of water?

2 Places like Alaska, the North Pacific
3 Council manages basically all - it's one council, but
4 we have these split jurisdictions that do have some
5 potential for conflict.

6 MR. OSTERBACK: I had a suggestion of
7 combining the Mid-Atlantic and New England Councils
8 into the North Atlantic Council. I'm not sure
9 politically, how well that's going to fly, but I did
10 make a suggestion of combining the two councils into
11 one council, because with so much jurisdictional
12 overlap. Again, I'm not sure how popular that is
13 politically.

14 DR. MURAWSKI: Well, one of the thoughts
15 that we've had, and we've filled up a lot of white
16 boards with this stuff, is potentially, if councils
17 were looking at things like fishery ecosystem plans,
18 they could develop a joint FEP between the two
19 councils where they try to reconcile some of these
20 differences.

21 It's not only one FMP versus another.
22 You're trying to put all these things in the ecosystem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 context. It makes it very messy in terms of the
2 inter-council dynamics, but nevertheless, you're
3 trying to effect something in the water.

4 The boundary issue is important. I'll
5 talk about it in a little bit in terms of how - some
6 of the thinking that's gone on here. Obviously,
7 maintaining ecosystem productivity and balancing the
8 ecosystem structure - there's a lot of science that's
9 come out recently about fishing down predatory fishes
10 and the feedback effects it may have on ecosystems.

11 A lot of interest in making sure that you
12 don't fish too low on the food chain to support pilot
13 trophic flows. Obviously, this thing about trophic
14 flow is very important and I'm actually in a brief
15 Congress tomorrow a little bit about trophic pyramids
16 101. This whole notion about depletion of the apex
17 and the predators and piscivores potentially
18 influencing the trophic levels is important.

19 This issue about scales and boundaries in
20 the ocean. The top panel there is a sea surface
21 temperature graphic from satellites, obviously, and
22 you can see that there are no hot, hard boundaries in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the ocean in terms of ways to parse the ecosystems.

2 In fact, those boundaries change on a
3 seasonal basis and we know that over time, there's
4 drift in a lot of the parameters like water
5 temperatures. The lower graphic represents sort of a
6 first shot at parsing the ecosystems in the United
7 States into a manageable subset.

8 These are the so-called large marine
9 ecosystem boundaries, recognizing that boundary is
10 probably too strong a word, given the fact that - you
11 look at the top graph and you can see that there is a
12 continuum of environmental influence there.

13 For the purposes of internal programming
14 in NOAA, we started to look at these eight large
15 marine ecosystems as ways to look at what we need to
16 do in the various areas, look at funding for emerging
17 issues, and also, perhaps as a basis, to start looking
18 at fishery ecosystems from a planning point of view
19 for fisheries.

20 These are the list. Now, the one issue
21 about the Pacific Islands, that ellipse is drawn
22 around the main Hawaiian Islands, and obviously,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there's a whole series of archipelagos in the Western
2 Pacific.

3 That's a way to simplify for the actual
4 situation out there. As well, we know that there are
5 discreet ecosystems up in the Arctic Ocean as well.

6 Just from the point of view of starting to
7 move into this area, this is more or less the way
8 we've parsed the United States, and what we're likely
9 to see over time is more workshops looking at the
10 issue of boundary definitions for ecosystem processes.

11 When you think about it, we can scale
12 these ecosystems almost any way we want, depending on
13 the size of the problem. For example, if you were
14 dealing with the ecosystem of bluefin tuna in the
15 Atlantic, it's basically the entire base because
16 that's how they migrate.

17 If you use these ecosystem definitions,
18 you have to understand how much of their life cycle or
19 how much of their dependency is based on one of these
20 smaller ecosystems versus the other, and you have to
21 make the exchange. On the other hand, for some
22 ecosystems issues, you may be perfectly adequate in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 just dealing with the bay or a harbor, because the
2 major processed you're interested in are working on
3 that.

4 This is a very active area of
5 investigation in terms of the basics for an ecosystem
6 approach. Where are the boundaries of an
7 ecosystem? It's just sort of an unsatisfying answer.
8 It depends on the question you asked. In fisheries,
9 this is probably a reasonable thing, it lines up more
10 or less with the council systems that we've got.

11 Obviously, there's boundary conditions
12 between councils and overlaps, etc., but from a
13 planning point of view, this is probably about what
14 we're going to be looking at.

15 Just so people don't get too comfortable
16 with this notion of scale, this is the California
17 current large marine ecosystem, which is basically
18 wholly owned by the Pacific Fisheries Management
19 Council. Even within that, you can see there's a
20 tremendous amount of structure.

21 If you look at the graphic on the upper
22 right is ocean color, basically chlorophyll

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 production. You can see the dynamic of chlorophyll
2 production is extremely complex and it's because of
3 upwelling areas and eddies that are created there.

4 The distribution of productivity of all
5 the species that were potentially involved there, all
6 the way from rock fishes up to sardines, it's highly
7 dependent on the oceanographic system there, and so
8 looking at spatial scales for these processes is very
9 critical and it implies that we're going to try to
10 have observing systems that currently have maybe
11 potential planning be appropriate to some of the
12 complexity issues there.

13 Observing is, of course, the name of the
14 game when we're dealing with any of these ecosystem
15 issues because we if you don't have the data, you
16 can't do much.

17 Okay. The last couple of issues on
18 EAF. Accounting for climate variability. We know
19 that there is many different scales of climate
20 variability and this is one of the central issues of
21 the ecosystems is how they respond.

22 We know, for example, we have basin scale,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 just straight-out variation. We have warm periods and
2 cold periods. We know that there are long-term trends
3 in some of the climate information, and we also know
4 that there's stuff that happens on the daily and
5 weekly scale, basically the weather scale, that are
6 important for the dynamics of many of these resources.

7 The last issue is this so-called adaptive
8 approaches to management. The notion here, and I
9 think this has become embedded in all of the
10 discussions we've had, is that when we start out in an
11 ecosystem approach, we have a certain base of
12 information, but it's certainly not adequate to
13 address all the seven previous issues in the
14 complexity they deserve.

15 At the get-go, we should embed in the
16 governance process the fact that we're going to learn
17 more about the system. As we do, many of the things
18 that we try are going to change. Instead of fighting
19 that change, we ought to try to embrace it a little
20 bit in the approaches that we actually put together.

21 Just a couple of examples. This regional
22 climatology - this is a system in the Atlantic and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there's a parallel one in the Pacific. This is the
2 North Atlantic oscillation, which is basically a set
3 of climatologies that look at the periodicity of how
4 the high-pressure off the Azores and low pressure cell
5 off of Iceland move around.

6 When you have one set of conditions, for
7 example, when you've got that high off the Azores
8 moves way to the West, then you get nasty weather
9 conditions up in the European countries, and you also
10 get a lot of rain on the East Coast in the United
11 States.

12 When that high pressure cell moves closer
13 to Africa, you get better weather conditions up on
14 both sides of the Atlantic in the North and more rain
15 down in Northern Africa.

16 This has some major impacts on components
17 in the ecosystem. This is the index of that
18 oscillation for the North Sea. You can see that it's
19 directly correlated with primary productivity,
20 zooplankton, and even some of the fish yields there.

21 This is not necessarily a directed thing,
22 it oscillates around, but the same kind of thing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 happens in the Pacific with the Pacific decadal
2 oscillation. This isn't necessarily long-term climate
3 change. This is climate oscillation, but it has
4 implications for productivity.

5 If we're dealing with things like BNSY,
6 say, for example, that lower fish graphic, and you're
7 subject to these changes that are due to climatology,
8 how can we deal with this? I know Pete Leipzig and
9 the Pacific Council deal with this in terms of some of
10 the changes in productivity that happen because of
11 upwelling and changes in upwelling in that system.

12 We need to think more directly about how
13 these kind of ecosystem impacts cascade through and
14 change our perceptions of productivity of stocks.
15 Trying to incorporate more direct links with changes
16 in the physical oceanography is kind of a key concept
17 in ecosystem approaches.

18 The last graphic on this is - this is
19 maybe a little bit of philosophy of science as much as
20 anything. There was a recent seminar at Scripts. It
21 was called The Known, The Unknown, and The Unknowable,
22 which is kind of an interesting - it's sort of like

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the epistemology signs, but I won't go there.

2 The main thing about this graph is that
3 the stuff up at the top is the kind of stuff that we
4 can do and we are doing now, and as you get
5 progressively farther down there, there are a lot of
6 the key ecosystem things that when we actually had
7 enough science, we could actually address.

8 This is all a continuum of investment. We
9 know, for example, we're doing things all along as
10 continuum. Some of these things are going to be
11 extremely hard.

12 Either they're going to be hard because
13 they're expensive - like, for example, a synaptic mass
14 of the sea floor is technologically possible right
15 now, but in order for us to do this in the resolution
16 of the understanding what's going on with the
17 biological communities, the cost estimates run into
18 the tens of billions of dollars, just because it's 70
19 percent of the surface of the earth.

20 Some of these things are going to be very,
21 very difficult, even if we had good information, like
22 predicted models of many species' interactions. There

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 are so many uncertainties and so many different
2 spatial scales that trying to deal with 30 or 40
3 interacting species and making short-term and longer-
4 term projections is conceptually an extremely
5 difficult problem.

6 Then you get all the way out to this issue
7 about the structure of pristine ecosystems. We don't
8 have any data before people were here. We have a
9 little bit of archeology. People are trying to piece
10 things back together again.

11 Obviously, getting back to pristine
12 ecosystems - possible because even the ecosystems like
13 the Northwest Hawaiian Islands, where there is
14 extremely limited fishing, for example, they're
15 impacted heavily by human effects. There's a lot of
16 debris out there that floats in from the Pacific.
17 Knowing something about pristine ecosystems is going
18 to be extremely hard and probably - well, we're never
19 going to achieve pristine out there.

20 One of the curious things about this is
21 this is what we consider known and unknowable now, but
22 the nature of science is that 50 years from now,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 people are going to laugh at us and say, well, we had
2 this technology we developed and now, that whole curve
3 has gone down the road someplace.

4 This is sort of a continuum of what we
5 think we know about the ocean and the reason I put it
6 up here was when we consider adaptive approaches to
7 ecosystem management, we have to think about the
8 science system that's going to support it.

9 How are we going to adapt to the fact that
10 we're going to learn more and more about it, what's on
11 that continuum? How can we fold that back into a
12 management scheme? Just more or less some food for
13 thought.

14 I wanted to update, very briefly, on some
15 of the ongoing efforts and then I'll wrap up the
16 ecosystem discussion. In 2004, Congress put about \$2
17 million on the table specifically for four of our
18 FMCs, to start looking at ecosystem approaches.

19 Now, we did a number of things with the
20 money. We gave each of those councils a quarter of a
21 million dollars to start some public outreach
22 processes to sort of gauge their temperature of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 constituencies that these four councils have for
2 moving more towards ecosystem approaches. They have a
3 number of workshops and other things in place.

4 One of the things that we did here was
5 also to pull together a survey instrument so that we
6 could actually measure a baseline of people's
7 ecosystem knowledge, the kinds of issues they're
8 interested in, so if we - and our thinking was, if we
9 did this now, before we've done any significant
10 outreach, then as ecosystem things start ramping up,
11 we'll have a baseline to measure the effectiveness of
12 any of the types of things we've been doing.

13 We actually developed with some social
14 scientists what I think are a really nice set of
15 tools. Part of the questions that we're going to be
16 asking are local questions, like in the Gulf of Mexico
17 and New England, issues about what's going on there in
18 ecosystem. Part of them are general questions about
19 the perceptions of what's going on.

20 The idea from that is, there are probably
21 certain issues that everybody has in common between
22 those four areas, and there are some issues that are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unique to particular things. This would allow us to
2 sort of compare and contrast.

3 The one hang-up that we've got with this
4 is we did all the work to develop the survey
5 instrument, but this is the government, of course, and
6 OMB has to actually approve everything that we
7 administer to human beings, including surveys, and so
8 it's sort of hung up in there.

9 We anticipate that that ecosystem will
10 perch that one and we'll get it out. We really want
11 to do it before we get too far down the line with any
12 kind of outreach, because we really want to set the
13 baseline. That seems to be going pretty well and we
14 have created a lot of interest in the councils.

15 We had \$2 million in '04 and mysteriously,
16 we were hoping that in '05, we would get some
17 continuing money so we could prime the science pump a
18 little bit, give a little bit more to councils. It
19 came out in '05 and we're hoping that in '06, it will
20 be restored.

21 Obviously, we've got four councils in this
22 program now and the other four councils, I will say,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they're a little upset. We obviously would like to do
2 this kind of work.

3 I think it got to the question that you
4 raised about funding. What are we doing to do for
5 funding? If in fact we had more stable funding on the
6 ecosystem side, that would make things go along a lot
7 better in terms of trying to get the councils to work
8 in this arena. That's an important aspect.

9 That's the pilot project thing. The
10 second thing is, I'm not sure people are aware that we
11 have an ongoing National Research Council study on the
12 ecosystem effects of fishing. This is one that we
13 cranked up early this Spring. They have had two
14 meetings so far and they'll have a third back here in
15 D.C. coming up.

16 The point about this study is there were a
17 lot of articles published in what we call high-profile
18 journals, like *The Journal of Science and Nature*,
19 other things. Sort of look - making a lot of
20 statements about what's going on, where you need the
21 systems and the impacts of fishing, etc.

22 Part of this study is to sort of look at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the scientific basis for some of these studies, like
2 fishing down the food web and also fishing - a 90
3 percent reduction in the large predatory fishes, and
4 some other things, but it's not a witch-hunt against a
5 paper or here or there. It's more to look at what are
6 the big-picture issues in ecosystems and how is
7 science going to address some of these things?

8 These are the sort of terms of reference
9 what they're looking at. When we talked to them,
10 these are the things that we wanted them to
11 concentrate on. First of all, is there evidence for
12 reversibility of fishing effects?

13 Some of the species, where fishing
14 mortality rates have been dropped dramatically, we've
15 got some major increases in stocks. There are a few
16 that have lagged behind. There's a lot of literature
17 out there saying that - particularly international
18 literature, not necessarily U.S. literature - saying
19 that some of these are irreversible declines. Really
20 like I'll go ask a scientific body to take a hard look
21 at that.

22 The second is evidence for ecosystem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 change due to predator overfishing. How much fishing
2 down of the top predators has had some feedback
3 effects in terms of what we know?

4 The third issue is fishing impacts on
5 system-wide productivity. Fishing down a food web,
6 hypotheses. These are bottom-up, top-down, middle-
7 out, all kinds of buzzwords from science.

8 The shifting baselines issue, that is the
9 fact that over time, either people forget how it used
10 to be, or there was no documentary evidence that we
11 can use to analyze things until the population change
12 was so obvious that things were declining.

13 Global syntheses. One of the interesting
14 things in scientific literature right now is people
15 try to - instead of working at a local area, doing
16 some science, they try to get a worldwide perspective
17 on an issue, like bycatch or just in turtle intakes
18 and fisheries, etc.

19 What are the rules for doing a global
20 synthesis when you know that you don't have data
21 that's complete on a global basis? That's one thing
22 we wanted to look at. Effectiveness of MPAs for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 ecosystem objectives and the adequacy of data.

2 That's what the National Research Council
3 is going to do for us. When they're done, I think
4 we'd really like to bring this back to MFAC in terms
5 of getting a report out, because I think it's going to
6 be very interesting for all of us.

7 Okay. The other thing that we've got
8 going right now is with this small group of people
9 from the FMCs, they want to do a survey of the eight
10 fishery management councils to see just how far they
11 are down the road on ecosystem-based management
12 strategies and things.

13 There's a number of questions that the
14 people involved in this have proposed in terms of
15 going back to the councils. Is your council currently
16 implementing ecosystem approaches?

17 Describe recent management decisions that
18 were based on ecosystems, so that we can get a better
19 sense of how much we've already done with the fishery
20 management councils. There's a couple of other
21 questions here. You can read them as well.

22 MR. DORSETT: Question on that first

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bullet. I think there's a bit of controversy as to
2 whether or not councils are implementing ecosystem-
3 based management, so what's your standard there?

4 DR. MURAWSKI: Well, we want them to
5 respond to it. If they define what they're doing as
6 ecosystems, that would be interesting, so I don't
7 think we're going to try to apply too many conditional
8 words on this survey, because we'd like to see how the
9 councils are describing what they're doing. NOAA's
10 it's taking the bull by the horns in some of these
11 councils and project that as within their authority.
12 We like to sort of see how it --

13 The next steps, and I think this is
14 certainly fruit for discussion here, what are the
15 merits of pulling together guidelines and guides for
16 EAF, the reasons for doing it, what exactly the
17 guidelines should be addressing. We have these eight
18 or nine areas that have been suggested so far.

19 What do people think our other potential
20 guidelines are? Are we missing the boat? The issue
21 of how to implement this is real hot and heavy right
22 now in terms of should we put it in the Magnuson

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Act? Should we rely what the councils are already
2 doing on their authorities? Who should do this?

3 Should this always be a fisheries
4 management issue or should this be at NOAA's level?
5 How do we get the states involved in this? Because in
6 many areas, states are the main players, not
7 necessarily the Federal FMPs.

8 When should we do this? Do we have enough
9 information now to do this or should we wait until we
10 collect better information on all these areas? All
11 these issues are in play in terms of what goes on, so
12 if MFAC wants to dig in on this one, we'll be really
13 interested. Yes, sir?

14 MR. FLETCHER: You know, Steve, one of the
15 things I haven't heard too much about in this whole
16 discussion is the regional approach, not the large
17 marine ecosystem approach, but a regional approach.

18 We can't do it at the city council level
19 because we just don't have the funds. Maybe they do
20 have the funds to do it more in the North Pacific
21 because of the additional money that they get through
22 Ted Stevens or maybe Western Pacific Fisheries

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Management Council can do it, because of assistance.

2 Really, in my mind, there is a lot of look
3 and no one's really been doing it. At the Pacific
4 Council, we talk about it, but we don't do it because
5 the money isn't there.

6 If you look at the difference within
7 regions, there are major differences in the impacts on
8 fisheries and there are major differences on the
9 abundance of these different species. It really - I
10 think it should be a part of any discussion on
11 ecosystems approach to management, is this differing
12 impacts, both from population centers - Southern
13 California has this massive population and so water
14 quality is a much bigger issue than it may be in
15 different parts within California and other places.

16 This regional focus maybe needs to be
17 looked at a little bit more in detail, because I don't
18 think it has and I know a lot of us believe it's a
19 significant impact and needs more development.

20 DR. MURAWSKI: I couldn't agree with you
21 more. We take the California current system, as you
22 said, the Northern part of that is way different from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the Southern part of that. One definition isn't
2 necessarily going to be appropriate for all of the
3 issues you're dealing with in terms of, for example,
4 non-fishery issues, like water quality and coastal
5 location.

6 This issue about disparity funding is
7 important because it's a political system, and places
8 where we've got more observational horsepower are
9 going to be better prepared to deal with some of these
10 more complex issues.

11 What we're trying to do inside the Agency
12 is to look at those eight areas in terms of, what
13 exists here now for science capacity? What needs to
14 be built out? How can we leverage the academic
15 community? You've got a very strong academic
16 community in Southern California, for example. How do
17 you get them to play, to actually bring their
18 information to the table.

19 Anything that we can do to try to pull
20 together existing resources is going to help the
21 process. You're right. We can't do anything if we
22 don't have enough science resources to support

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 whatever process you want to do.

2 That always comes down to the bottom line
3 and ecosystem science, there's a lot we can do pulling
4 together existing information and there's a tremendous
5 amount of information that's sort of lying out in all
6 sorts of different sources and a lot we can do by
7 pulling it together.

8 One of the things we talked about is sort
9 of regional GIS centers, where you can pull everything
10 together in a spatial framework, the physical data,
11 the sea surface sensing, basic fishery designation,
12 things like that, to try to reflect on this a little
13 bit, so one of the things we want to try to do is see
14 if we can do this big inventory on a regional basis.
15 That's the key to this.

16 MR. FISHER: I don't even know how to ask
17 this question, but to me, this is an interesting
18 thing to watch, because it creates - just what you
19 said, Steve, this creates a huge problem because once
20 we go into this deal, figuring out who's - what, we go
21 into the food fight over how much money is there now.
22 That's the first thing that happens.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 The second thing that's going to happen
2 that's kind of interesting is I don't know who's
3 really driving this stuff, because if you look at the
4 administration, you look at the issues we're dealing
5 with, specifically out West, you have people that say,
6 well, let's do this ecosystem stuff and then, when you
7 look at it and you figure out, well, that's
8 interesting, but you've got a situation where you've
9 got the Secretary of Interior saying, well, we're
10 going to let the farmers have all this water because
11 we don't want to mess with that, but let's really go
12 out there and do something wonderful.

13 I wonder how long we're going to do this
14 before the administration changes, and then we're just
15 going to undo all of this stuff. We're doing a lot of
16 talking. We're spending a lot of time talking about
17 it internally. You're spending a hell of a lot of
18 time working on it, and yet, we don't have enough
19 money to even do the basic data program to do our job
20 right to start with.

21 To me, it's a very frustrating situation
22 to sit and listen to, and I don't know whether it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 been driven by the Admiral himself. Congress comes
2 out and says, well, we want you to do this kind of
3 stuff, so I'm not sure you can answer the question,
4 but that's what bothers me.

5 DR. MURAWSKI: You know, it's interesting.

6 If you all want to date that, that's fine. I went to
7 the hearing of the Ocean Commission that they held in
8 Boston. This was about halfway through the process
9 and so the Admiral is there and he says, "Every
10 meeting I've been to, everybody says we need an
11 ecosystem approach and nobody says what it is." I'll
12 tell you, a lot of this has come from the Commission
13 and the Oceans Commission driving very, very hard on
14 this as the cornerstone of what to do in the oceans.
15 I think the administration is trying to follow the
16 lead, basically, of the temperature that we're getting
17 from people.

18 Now, in fisheries, in our sector,
19 obviously, we don't have enough resources to do the
20 species by species approach. We're underfunded, as we
21 know, in terms of basic statistics. On the other
22 hand, what's the road map? Where are we going with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 all of this stuff? Are we locked into basically
2 trying to replicate all that catch statistics and all
3 those FMSYS for everything out in the ocean?

4 Is that the logical conclusion, or should
5 we start on the process of picking up some of these
6 things like water management? How do we effect hard
7 problems, but they're central to - salmon management,
8 for example, in the Pacific Northwest.

9 If you don't have water coming down the
10 estuary, you can have the best catch monitoring
11 program in the world, but it's not going to matter. I
12 think it's a little bit of trying to work at both ends
13 of a problem. You're right, it's frustrating and
14 there's no road map.

15 One of the encouraging things, though, I
16 think, is that this is being fostered from the bottom
17 up a little bit, in terms of people who have got some
18 experience with what's going on, rather than just
19 being imposed from the top with some sort of
20 structure.

21 I agree. It's very frustrating,
22 particularly when we don't control all of the action

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 within a governance structure that we're familiar
2 with, but I'm not sure what the alternative is if we
3 don't actually get out.

4 DR. ROBERTS: I'll start with where you
5 ended. I think it's a dead end, EAF, if in fact you
6 were the only agency in government that's committed to
7 this. I can cite examples in the watershed and
8 coastal areas and areas in Louisiana, where even
9 Federal agencies aren't so committed to EAF, like
10 you're going to be, and I just wonder where it's going
11 to go.

12 The salmon issue's one, but there are
13 more. I think that's the thing that's a big
14 frustrating to me. I'm frustrated like Randy, too,
15 but from the standpoint of it looks to me like EAF is
16 a commitment of NOAA fisheries and I can't see it
17 elsewhere in development very readily to the kinds of
18 resources you're putting on it.

19 That's the first part of it. The second
20 thing, I believe, is that there seems to be a target
21 focused more on juvenile and adult fish and I think
22 we've got to - maybe those are easier to count and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 identify and they're closer to some actual benefit,
2 and it's hard for the user groups, I think, to focus
3 in on the lower trophic levels, like you had in your
4 pyramid there, so there's this education and outreach
5 issue you spoke about, and I think that particular
6 part of it is very difficult for people who have a
7 shorter-term philosophy of harvesting, because they
8 want to use it and enjoy it.

9 That particular part, I think, is
10 something we've got to focus in on in terms of - you
11 may have to work at much lower trophic levels and not
12 very easily identifiable things.

13 DR. MURAWSKI: If I could react a little
14 bit. You're right about this - how invested is NOAA
15 in this versus the other agencies you mentioned, and
16 frankly, NOAA is pushing the agenda. I think this
17 is - Bill talked about this block diagram with the
18 SEMOR and the other things.

19 Those are the places where we can start to
20 engage these other agencies, but if they're not going
21 to play, there will be big holes in this thing. For
22 example, if the Corps of Engineers says they're going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to do something on nutrients coming down to
2 Mississippi, or Ag, or Interior, I mean, you're still
3 going to have a hypoxic zone out there of Texas.
4 That's going to have impacts on fisheries.

5 You could try to do something there, but
6 if you can't get by on coastal modifications, you're
7 going to look at problems in shrimp productivity and
8 some other things.

9 You're right, if we can do a good job in
10 motivating these other agencies, then you can only
11 manage what you've got. We'll be back to managing the
12 juvenile and adult stages in terms of bycatch
13 management and not trying to look at the basis of it.

14 MS. BRYANT: And then Rob. Rob Kramer.

15 DR. MURAWSKI: Rob?

16 MR. KRAMER: Yes, I just kind of wanted to
17 follow up on what Randy had said. I was, at one point
18 in my career, employed with the Department of
19 Environmental Protection, and at that time, fisheries
20 management was under the Department.

21 A mandate came down from the Secretary
22 that we're going to implement ecosystem-based

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 management on everything we do. They set up a very
2 complex cross-matrix of how the various departments
3 are going to coordinate, how various other agencies
4 are going to coordinate, and then administration
5 changed and not only did that come to a halt, but
6 fisheries management was completely pulled out of the
7 Department of Environmental Protection, which had
8 overview of habitat, and put in a completely separate
9 agency.

10 I think to that end, you may want to focus
11 on the what. What are the things that need to be done
12 to move in that direction that we need anyway, even if
13 we're not in this new ecosystem management world?
14 Where are the data gaps? Where are the things that
15 we're going to be as opposed to creating these complex
16 things that may be subject to change somewhere down
17 the line.

18 I know most of this has to go
19 simultaneous, but I think there's some examples out
20 there to learn from.

21 DR. MURAWSKI: That's a good point. The
22 last thing we want to do is create a superstructure

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that is administration-dependent.

2 MS. WYNNE: Well, getting back to the
3 couple of points before, even within your agency,
4 between fisheries and protected resources, you have
5 upcoming or increasing conflicts.

6 I'll bring this up for Bob so he doesn't
7 have to do the marine mammal issue, but early on in
8 your discussion, you were talking about managing
9 tradeoffs, and if in fact the AFPA's primary
10 objective, which seems to have been lost, was to
11 maintain the health of the ecosystem, number one, and
12 when consistent with that, get marine mammal
13 populations to OSP.

14 Everyone's kind of forgotten the ecosystem
15 part and gone right to part two for 30 years now, so
16 now that we've recovered some of these species, it's
17 time to go back to the primary objective and I don't
18 see how that's going to happen on this tradeoff.

19 I mean, you can go through this exercise,
20 but when it comes down to the tradeoffs, who is going
21 to be making these, and if this is being driven from a
22 certain sector, do you see that forecasting or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 designing the tradeoff decisions? I just don't see
2 where you go once you get to this point.

3 DR. MURAWSKI: Well, we were specifically
4 talking about within the fisheries sector and how you
5 manage tradeoffs. We would probably look at things
6 like the national - and those are calculable kinds of
7 things, so when you look at, for example, bycatch
8 management in Alaska, you've got potentially large
9 numbers of dollars in ground fish, but you've also got
10 other things that is an equation there for managing
11 what's going on.

12 In terms of managing one statute against
13 another, we haven't really gotten that far.
14 Obviously, this is still on the drawing boards. At
15 some point, as long as the stocks are not threatened
16 and they're above that test, then you're managing a
17 system, for example, and what are the rules to do
18 that?

19 Unless we start getting some experience
20 with managing tradeoffs and bringing in diverse
21 stakeholder groups - and I think that's actually one
22 of the principles that people lose all the time is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that you sort of invoke an ecosystem approach and the
2 number of stakeholders that meet in a room to actually
3 do it broadens out, it becomes a large, multi-
4 disciplinary hard process to manage.

5 On the other hand, the alternative is to
6 have it all fought down the street down there with
7 whatever group can yell the loudest, and that's
8 basically what's happening, rather than trying to take
9 control of it on a regional basis, which is the
10 ultimate objective in this.

11 Maybe it's trying to get Congress out of
12 the loop at little bit. Tony?

13 CAPT. DiLERNIA: Thanks, Steve. As I hear
14 you speak and I hear others, I hear folks speak about
15 ecosystem management, I am a bit skeptical, and I hear
16 some skepticism from other members and state
17 representatives. I compare this to the types of
18 discussion that perhaps occurred in the early 70s
19 before the Clean Water Act, in which - the Clean Water
20 Act was like a watershed event as far as managing and
21 it involved so many different agencies coming
22 together.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I catch striped bass now because of the
2 Clean Water Act, and because of our fisheries
3 management. I wonder how much skepticism existed in
4 the late 60s and the early 70s, before that law was
5 passed.

6 I think that our discussions that we have
7 now and the exploring that do now and the inclusion of
8 items and then dismissing of some items as being
9 unworkable is similar to what occurred in the late 60s
10 and the early 70s.

11 Just when we passed the Magnuson-Stevens
12 Act the first time, how much discussion was there
13 about whether or not it would be successful on
14 that? Can we really do this? Can we get states to
15 work together? Can we get agencies to wok together?

16 We've been successful there. We've been
17 successful. Let's face it. It's taken 25 years to
18 become successful, but we have, and so I'm encouraged
19 by all of this. Yes, I am skeptical at times. Yes, I
20 see problems. That's why we're here, to find problems
21 and to solve them, and so to the critics that are
22 skeptical about this, I say, well just hold off and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 just work towards solving the problems than just
2 finding obstacles at times.

3 Again, it just reminds me of what happened
4 in the early 70s, when I was a graduate student
5 looking at some of these things.

6 DR. MURAWSKI: Healthy skepticism, to try
7 to find all the logical inconsistencies of this, is
8 important now, rather than when we write legislation
9 and put things into stone.

10 I think this is one of the reasons why
11 people are talking about an option at this point to
12 think about this rather than mandate in the law. Just
13 because we have three experiments out there with three
14 different councils trying to look at this, trying to
15 see where it can go, trying to look at resources, and
16 so we ought to encourage that and see what they can do
17 within the law.

18 Maybe try to get a little bit of
19 consistency across the country, try to highlight some
20 areas we think we ought to work on in terms of the
21 resources, that will be the limiting factor. In terms
22 of the basics, how many X, Y, and Z are there? The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 inventory part, and then trying to understand the
2 processes of control and dynamics. Leveraging will be
3 an absolute requirement.

4 We'd appreciate your input. Skepticism is
5 good. We ought to curb vile enthusiasm anytime we can
6 and believe me, a lot of the issues brought up here
7 have been brought up almost every place we've talked
8 about.

9 On the other hand, the question is, a risk
10 versus a reward, so this is all the stuff that we're
11 processing now, so we'd appreciate any input that MFAC
12 wants to give.

13 Phase two. I realize that you've been
14 lectured to and PowerPointed to death here. I'll try
15 to make this one a little shorter. I will make this
16 one a little shorter.

17 MS. BRYANT: The agenda kind of got
18 crunched. This was not supposed to be a day of
19 PowerPoints and all of that.

20 DR. MURAWSKI: Okay. The last issue that
21 I want to talk about is also an issue that Jack talked
22 to a little bit about and there seemed to be a few

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 questions about, and that is the whole issue of
2 strengthening science supporting fisheries management.

3 This started out as the allocation versus
4 fish-counting, but that sets it up as a win-lose
5 proposition, and we don't think that this is a win-
6 lose proposition. It's a more fundamental issue than
7 that. We've recast this as number one, what are the
8 standards for best available science? We've talked
9 about it a lot. I think Frank asked the question,
10 what is a minimum standard for science?

11 The second issue is - and this issue makes
12 my scientist's blood run cold. It's the bureaucrat's
13 nightmare here. Implementation of OMB's peer review
14 bulletin, and I'll talk a little bit about it, because
15 it is making a difference in some of our lives and
16 it's coming to the councils.

17 The third issue is more or less this
18 separation between science and management. I want to
19 talk a little bit about that.

20 The first issue on standards for best
21 available science, of course, national standard two to
22 the Magnuson Act says that conservation management

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 measures shall be based upon the best scientific
2 information available, and there's two clauses to
3 this, of course.

4 What constitutes the best science and what
5 do we do when we've got gaps in the science, but it's
6 the only stuff available? Therein lies the potential
7 contradiction between best and available. We've been
8 thinking quite a bit about if we should actually move
9 to more direct standards for this, because right now,
10 it's fairly broad and there are a few operating
11 standards that are used in the Magnuson Act, but it's
12 very obvious that with this move afoot to do more peer
13 review than to tighten up on science, we need to have
14 better guidance in national standard two.

15 In terms of looking at the national
16 standard, it has four characteristics that are very
17 important. First of all, it affirms the rule of
18 science as a basis for making a management decision,
19 as opposed to the alternative, which is a wholly
20 political process.

21 The second, it's resulted in a set of
22 procedures and guidance for selecting the best, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there are a variety of things that, for example, the
2 fishery management councils could do, and some of
3 these regional in terms of the processes for
4 determining the best through peer review.

5 The third, it stipulates that the lack of
6 perfect science will not be used to delay
7 implementation of management, and that's the available
8 part of it.

9 The last, it implies a commitment to
10 improving science, where it may be good, but it's
11 certainly not good enough.

12 That's what we're trying to effect over
13 time is to improve the scientific basis, and we've
14 actually been quite successful in recent years with
15 something called the stock assessment improvement
16 plan, which is actually generating about \$25 million a
17 year for improving basic stock assessment science and
18 fisheries and that money goes to the regions and other
19 places that do stock assessments and data gathering.

20 In terms of looking at this issue, this is
21 a big issue, not only in fisheries, but basically, in
22 science-based decision-making throughout the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 government.

2 We asked the National Research Council to
3 take a look at this issue last year. In fact, at the
4 end of last year, they issued this report and we can
5 get copies of this report for you. It's quite
6 readable. It's a thin document. It's very
7 insightful, because they looked at science-based
8 decision-making throughout all different kinds of
9 agencies in terms of the standards for defining these
10 kinds of things. We asked them to look at how should
11 adherence to national standard two be measured? How
12 and when should it be employed, the standard? Should
13 national standard two be employed to exclude
14 inadequate data, or should it be ranked in relation to
15 the relevance and the rigor of information?

16 MR. OSTERBACK: What'd they say about
17 that? What'd they say about that question?

18 DR. MURAWSKI: They said it should be
19 ranked and data should not be excluded just because
20 you necessarily - there are some attributes that you
21 don't necessarily like. This gets to this idea that
22 all information is useful. Some of it's better than

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 others.

2 Obviously, when you have conflicting
3 information, you want to look at the rigor and develop
4 missing data.

5 The last issue, it recommended a number of
6 workshops and several studies in order to do this.
7 Now, in terms of what came out of that report, their
8 guidelines basically emphasized six areas that we
9 should look at in terms of establishing guidelines for
10 a national standard - first of all, is the relevance
11 of the information. With whatever problem you're
12 looking at, you have to make sure the data you're
13 collecting is relevant to the problem. You can't do a
14 dog assessment and have data on cats.

15 It ought to be inclusive, and that is, I
16 think to your point, Tony, that includes all potential
17 data sources that bear on the problem, even though
18 some of them may be problematic.

19 That the data ought to be looked at
20 objectively, in terms of the potential for bias when
21 analysts look at data like this. We need to look
22 carefully at who's analyzing the data and what their

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 motivations are.

2 That the process ought to be transparent
3 and open. For example, the users ought to know when
4 these meetings are occurring, what the agendas are,
5 what's being considered. They ought to have some
6 input.

7 That the information needs to be
8 timely. Collecting data five years ago bearing on
9 fishery management decisions today. If that's the
10 last information you've got, you've got a timeliness
11 problem.

12 Last, that there should be some formal
13 peer review processes set up and of course, we have a
14 wide variety of peer review processes that go on in
15 fisheries all the way from one colleague looking over
16 another colleague's shoulder all the way up to the
17 Federal Court system. Frankly, that's part of the
18 peer review process. We've worked in almost every
19 other avenue, as far as that goes.

20 Those are the six areas that this NRC
21 study basically has directed to us. Now, what we're
22 doing now is Jack told you a little bit about national

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 standard one and we've actually gone back on national
2 standard one.

3 We did a process where we looked at
4 revisions, we held a number of public meetings, had
5 two Federal Register announcements, and the revisions
6 to national standard one are just at OMB right now.
7 They're basically going to be sent out for a final
8 rule.

9 What we want to do is to actually start a
10 process where we go out and look at national standard
11 two. Big, open, public process where we put out a
12 Federal Register notice, try to come up with, in those
13 six areas, some guidelines that we would want to look
14 at to put some more flesh on the bones, to try to
15 establish these things in terms of operating
16 procedures.

17 This would be an open process where we'd
18 solicit input from the public and anybody that's
19 potentially impacted by this in the councils would
20 obviously be heavily involved in this, so we're just
21 starting a process to basically go out on national
22 standard two and the person that's going to run this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 study is Joe Powers. Joe is a scientist down at the
2 Southeast Fisheries Science Center. He's actually
3 just come on board as - he's going to work for the
4 Office of Science of Technology.

5 Paycheck out of Washington, he's going to
6 sit in Miami. What a deal that is. He's going to be
7 running our national standard two process. That's
8 national standard two, and if we want to talk about
9 it, it's fine.

10 The second issue I want to talk about is
11 what's called the OMB peer review bulletin. I'll
12 touch on a few of these issues in the peer review
13 bulletin. What happened was about a year and a half
14 or maybe about two years ago, OMB got really excited
15 about peer review processes and frankly, it had
16 nothing to do with fish at that time.

17 There was a lot of suggestions in some
18 other agencies, like EPA, that perhaps the bureaucracy
19 was running amuck there a little bit in terms of
20 standards and all kinds of things and the edicts were
21 coming out in terms of levels for contamination and
22 all sorts of other things.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 This was a law passed by Congress. It's
2 either called the Information Quality Act or the Data
3 Quality Act. The idea there was to establish some
4 ground rules for establishing the scientific basis for
5 any decision-making going on to the Federal
6 Government.

7 Actually, the Commerce Department had
8 quite a few comments on the initial drafts, which were
9 horrible. A lot of Commerce Department's comments
10 were actually crafted based on fishery management,
11 because fishery management is actually one of the
12 biggest regulatory functions of any government agency
13 in terms of the volume of pages of the Federal
14 Registry.

15 There was actually quite a bit of leverage
16 in OMB's peer review, both the final - came out of
17 here coming out of fisheries in terms of processes
18 that had been developed.

19 Just to delve into the mysterious OMB.
20 The Information Quality Act was the basis of this, to
21 ensure and maximize the quality, objectivity, utility,
22 and integrity of information disseminated by NOAA, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of course, this is a - fill in your agency at the end
2 there, because it applies to all Federal agencies.

3 Look at administrative mechanisms allowing
4 affected persons to seek and obtain correction of
5 information that does not comply with OMB and NOAA
6 guidelines. That means, the public can go back in and
7 if your decision is based on some numbers that they
8 think are wrong, they actually have an administrative
9 way to go back in there and make a challenge to the
10 data in this thing.

11 We've had a number of challenges to the
12 Data Quality Act, one for some decision that was made
13 on salmon aquaculture. There was some difficult
14 decisions made, and also on Amendment 13, to the
15 ground fish plan, there was a Data Quality Act
16 challenge.

17 It's contingent on us to report to OMB the
18 number and the nature of requests for changes in the
19 basic information that have gone on, so it's a public
20 redress kind of thing that's gone on. We haven't
21 dealt with a large number of these, but certainly,
22 it's available to basically any member of the public.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. COOK: So there's a formal procedure
2 and some timelines on it? You can do this instead of
3 going to court?

4 DR. MURAWSKI: You can. This is not the
5 court of last resort. Particularly if there is
6 information that somehow crept in that was wrong, I
7 mean, this is a way to redress that. Now, it's - with
8 the kinds of decisions that we're making, we've got
9 millions of data, and so it's hard to - unless there's
10 a real egregious issue here or a peer review process
11 that's gone astray or something like that.

12 Nevertheless, this is the intent of this
13 law is to allow basically some sunshine on these
14 processes. Again, I think it had a lot to do with
15 setting contaminant levels and the basis for that.
16 Anyway, DQA applies on a day to day basis to decisions
17 in NOAA. OMB had this peer review bulletin. It
18 applies to two types of information covered by the IQA
19 or DQA.

20 First of all is what we call influential
21 scientific information. The second is called highly
22 influential scientific assessments. There are bars

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for all this, as well. We'll talk about this a bit,
2 because the distinction is extremely important.

3 There's two levels of peer review that are
4 applied, depending on whether you're influential or
5 highly influential, in terms of decisions. We'll talk
6 about the criteria in a minute. It gets a little less
7 murky. The basics of the bulletin are that there are
8 minimum peer review standards. In most of the areas
9 of the country, we have a fairly elaborate peer review
10 for fishery science.

11 We've got the SSCs that operate in a
12 number of the councils and then for three of the
13 areas, we have this other process and we call them the
14 triple S's, the SARC, the SEDAR, and the STAR.
15 Depending on where you come from in the country, you
16 know one of the three. Those are basically peer
17 review processes that are regional-based and they're
18 supplying information to the fishery management
19 councils.

20 There's minimum peer review standards.
21 There's transparent cost process for public
22 disclosure. That is, the public needs to know when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and where you're conducting a meeting, what the terms
2 of reference are, what species are going to be
3 collected. They can comment on the data. There's
4 this public input aspect of this.

5 The bulletin is issued under the IQA and
6 OMB has general authority to oversee the quality of
7 agency information and analyses from regulatory
8 activities. OMB controlled, as I'm finding out in my
9 brief tenure in Washington, OMB controls the world.

10 What's covered? The influential
11 scientific information. That is classified as
12 scientific information that the agency reasonably can
13 determine or will have or does have clear and
14 substantial impacts on important public policies or
15 private sector decisions. Basically, most of the
16 decision-making we do in fisheries is considered
17 influential scientific information.

18 The second thing is what we call
19 scientific assessments. That is an evaluation of a
20 body of scientific or technical knowledge that
21 typically synthesizes multiple factual inputs, data,
22 models, assumptions, and/or applies best professional

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 judgment to bridge uncertainties in available
2 information.

3 Remember, this applies to everything in
4 the government. It sounds to me like fisheries
5 management. Then the last is the so-called highly
6 influential assessments, and they are - if they could
7 have a potential impact of more than \$500 million in
8 any year, or is a novel controversial precedent
9 setting, or has significant interagency interests.

10 Now, there are a few decisions in
11 fisheries that actually have this \$500 million a year
12 precedent. They're very high level things. There are
13 a few potential areas where we would get into the \$500
14 million bar. Many times, however, we introduce novel,
15 controversial precedents and models and those kinds of
16 things, so we're more likely to see highly influential
17 decisions based on the second criteria rather than the
18 first, but --

19 MR. COOK: What happens when a person
20 challenges the data and the challenge is accepted and
21 the person wins? Is there some sort of a - what
22 happens at that point?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 DR. MURAWSKI: Well, this is the way it's
2 supposed to work in theory, because there hasn't
3 actually been a successful challenge to it. As far as
4 I know, there's only been two. Two challenges.

5 The way it's supposed to work is the data
6 getting corrected, and then the process - whatever the
7 data are corrected, then you've got to start - in
8 fact, they have some influence on the process, then
9 you've got to start back from when those data entered
10 the process, so it resets the process.

11 Those are the things that are covered in
12 terms of the types of information. Now, in terms of
13 what's not covered. What's not covered is the data
14 where distribution is limited to government employees
15 or agency contractors or grantees, so that there's not
16 wide public dissemination. Inter or intraagency use
17 of sharing this government information. Responses to
18 requests for agency records under FOIA, which is - I
19 can't remember the acronym. So if, for example, if we
20 respond to a FOIA, it's not necessarily covered under
21 the Data Quality Act.

22 Correspondence with individuals or persons

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 or subpoenas of the adjudicative processes, and last,
2 research is produced by government-funded scientists.

3 If the information does not represent the views of
4 the agency, that is if somebody's out there doing some
5 rogue stuff, we don't necessarily have to stand by it,
6 as long as there's a disclaimer.

7 They get fired later, I guess. That's not
8 covered. There's some other things that are
9 exceptions to this, and that includes information
10 related to national security or foreign affairs,
11 regulatory impact analyses or reg flex, routine
12 statistical information. Just standard stuff that
13 comes and goes all the time, not necessarily
14 controversial stuff.

15 Information distributed for peer review
16 and compliance with a bulletin. That is, if you're
17 complying with the steps, I mean, you can't break the
18 chain there a little bit.

19 In terms of the peer reviews - that was
20 more or less what's covered under this thing. In
21 terms of the peer review standards, there really are
22 two levels. First of all, the standards for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 influential scientific information, and then for the
2 highly influential scientific information.

3 For the influential scientific
4 information, the standards are - they basically look
5 at the selection of reviewers, that they have to have
6 some expertise in the field and the reviewers have to
7 represent a balanced portfolio of people involved in
8 that issue.

9 Then, we have to minimize conflicts of
10 interest. Obviously, for things that we do in the
11 government, we try to select independent reviewers
12 that have no conflicts of interests in terms of a
13 government funding or other things, when we're paying
14 for outside experts, and that they're independent of
15 the outcome of the issue.

16 There's a choice of peer review mechanisms
17 and we have a number of them. Transparency is kind of
18 a must and there is also this issue of the management
19 in the peer review process.

20 Okay. For highly influential standards,
21 you can see that there is even more in terms of some
22 of these issues about information access, opportunity

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 for public participation. Those are the big things,
2 that the public is heavily involved in these things
3 and has an opportunity to comment on them.

4 In terms of the peer review standards,
5 there is also some alternative procedures that the
6 agencies can follow, and you can read these. They're
7 basically ways that we can more or less opt out if in
8 fact the standard peer review things aren't working.

9 One of them involves National Academy
10 Sciences review, which would seem to be ongoing all
11 the time anyway. In terms of NOAA's requirements, in
12 order for us to work in any of the influential or
13 highly influential, we need to publish the agendas for
14 all the science that's going into that.

15 We need to have a peer review plan that's
16 also distributed widely to the public, an opportunity
17 for public comment, an annual report of all of the
18 activities that are going on to Phyllis, certification
19 in the administrative record for all of the final
20 decisions that are made, and we need to populate the
21 Department of Commerce's website and so actually, as
22 it turns out, we have a coordinator that does all this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 and we're trying to up the level of adherence to this.

2 We're trying to go back to the councils
3 now to talk a little bit about what they're doing in
4 all the peer review processes they have to see how
5 they actually line up with this. There are a few
6 things that we're going to have to do in order to make
7 all these things sort of click in.

8 There are some important dates, and you
9 can see that some of these are actually pretty topical
10 here. The bulletin applies to information
11 disseminated on or after June 16, 2005, which is at
12 the end of next week, I guess.

13 Peer review planning requirements for
14 highly influential assessments apply as of June
15 16th. That means we have to start publishing when we
16 anticipate doing those kinds of things. Peer review
17 planning requirements for influential information
18 apply as of December 16, 2005.

19 So, highly influential ones, we're working
20 on now, but the influential ones are a little later.
21 Annual reports as of December 15 and the peer review
22 agenda will be on the DOC website by the end of next

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 week, and so if you want to surf in there and see what
2 we're doing.

3 Okay. Just a sort of conclusion to this
4 peer review thing. The offices must be made aware of
5 these requirements. That's within NOAA. We have
6 requirements for highly influential assessments that
7 have to be in place.

8 We made a call for potential agenda items
9 in mid-March to try to identify some of those highly
10 influential ones. The NOAA website has to be
11 operational by the end of next week. Compliance with
12 the bulletin should be addressed fairly early here and
13 so we're trying to get an information package out to
14 the councils to talk about their peer review
15 processes.

16 The biggest issue for the SSCs and other
17 groups now seems to be pre-publication of their
18 agendas and making sure that the public is aware of
19 what the cycle is. Now, most of the councils have
20 this more or less in their materials, but we have to
21 be more explicit about it, so the biggest change is
22 probably going to be on the pre-notification of these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 things coming down the pike.

2 Okay. The last little thing I want to
3 talk about - that was sort of section two. The last
4 bit I want to talk about is sort of motivating a
5 discussion about separating science and management.
6 One of the things that we've done administratively
7 within the fisheries service is to try to separate our
8 science and management activities.

9 Within the last two years, what we've done
10 is prior to that, the science center worked directly
11 for the regional administrators, and this produced the
12 - you always had the perception that somehow, the boss
13 was a manager, that science could potentially be
14 torqued in the system.

15 Now, I've only worked with NOAA fisheries
16 for 29 years. I can't even remember a case when
17 science was modified. I never knew of a case of that.

18 On the other hand, perception is reality, and so
19 there was an overt move to separate that.

20 MR. COOK: You're making a distinction
21 between modified and disregarded?

22 DR. MURAWSKI: Okay. Certainly modified

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 has never happened.

2 MR. COOK: I would really beg to differ
3 about the disregarded part.

4 DR. MURAWSKI: Okay. I didn't say
5 anything about disregarded. The idea was to separate
6 the science side from the management side within the
7 fisheries service and we're trying to look at the
8 headquarters, as well, to see if we can separate out
9 the science from the management, as basically trying
10 to set an example.

11 The second is the use of peer review
12 mechanisms by the councils. Now, we have a whole
13 variety of peer review mechanisms. Now, the more that
14 we utilize formal peer review, the more dependent
15 we're going to be and more open we're going to be
16 about actually using that science information without
17 sort of using it as a basis for negotiation, and
18 that's been an issue in the past in some councils.

19 I think it's very clear the more we up the
20 level of peer review, the more we can't tolerate
21 people basically using the science coming out of a
22 peer review process as a basis to negotiate the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 science management.

2 We want to separate those two processes.
3 Of course, what you had was the Ocean Commission
4 coming back and saying, you've got to completely
5 separate this process of determining how many fishes
6 you catch from who actually gets the fish by putting
7 it at different agencies or different sides of the
8 House.

9 We don't think we necessarily have to go
10 that far, as long as we have processes that build a
11 firewall between the science side of, say, council and
12 the management decisions that get made based on that.

13 Obviously, the use of peer review products and
14 decision-making is pretty critical.

15 DR. ROBERTS: I think I know the answer to
16 this, but obviously, looking at that bullet, they
17 don't consider advisory panels as peer reviewers?

18 Well, they're not considered peer
19 reviewers in the formal sense of the word, because
20 when you think about it, the advisory panels, they
21 don't have this independence from the issue that
22 scientists should have.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Advisory panels, by their nature, they
2 have a vested interest in the outcome. Not that they
3 can't make objective decisions and talk about it.

4 DR. ROBERTS: The reason I'm bringing that
5 up is I'm thinking about Jim's comment. Maybe
6 somebody on an advisory panel has that knowledge about
7 the collection of data in commercial fisheries, that
8 they could lend in that peer review process to that
9 element of it as whether the data protocol that it was
10 collected in really made sense in that industry,
11 whereby a scientist may think, where's a peer person.

12 It's entirely adequate, but you may lose
13 that oversight.

14 DR. MURAWSKI: That's a very good point,
15 because in the SEDAR process, they separate out the
16 data part from the modeling part from the assessment
17 part. Part of that data part is actually going on to
18 say, do people have some basic feeling for the
19 adequacy of this measurement and if they feel it's
20 inaccurate, why?

21 That actually sort of crosses the line
22 between the advisory panel to actually being part of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the process of looking at the quality of the
2 information. I actually think that's embedded in that
3 process in particular, the SEDAR process.

4 DR. ROBERTS: I fully understand what
5 you're saying about the vested interest and oversight
6 of your own outcome when you're dealing with an
7 advisory panel, but then again, I think there is some
8 ground there that they can assist in some way, like
9 SEDAR is doing.

10 CAPT. O'SHEA: Just to follow up on that,
11 this discussion of putting those groups in at the
12 front end of the process when data is being compiled
13 seems to make a lot of sense from not only the reasons
14 you were talking, but if there is a problem, you sort
15 of know about it up front. The down side of putting
16 it at the end of the process is okay, then where do
17 you go?

18 I guess the other part is then, if you put
19 the advisors, stakeholders, whoever you want - in
20 fact, it could be anybody that has an interest. Let
21 them bring their data to the table up front, in the
22 beginning, and have it looked at.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Then the peer review basically says, did
2 the process allow stakeholders to bring data in up
3 front and was that a rigorous process, was it properly
4 - was it given a proper weight and included in the
5 scientific advice?

6 I would think that would be an appropriate
7 role for the peer review guys.

8 DR. MURAWSKI: Exactly, and I think one
9 other reason to have this interaction at the beginning
10 of this process is if it comes in after you know the
11 results of the assessment, it looks like you're
12 marketing it to the outcome, as opposed to you got
13 real problems with the input.

14 Maybe a little bit of both, but still, in
15 terms of preserving the integrity of the process,
16 having that input at the beginning is actually
17 important. I know personally, from running peer
18 review processes in the Northeast, by having fishermen
19 there, many times, the scientists have no idea about
20 what's really happening and where those data are
21 collected and more times than not, you get a little
22 seminar about how it actually works.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Most of us have found it actually quite
2 valuable to have input at the other parts of the
3 process.

4 MR. FLETCHER: For a few years, Senate
5 Council has done what they called a STAR panel. The
6 STAR panel is for stock assessments. They have the
7 peer review process. They create a panel that
8 includes members of an advisory subpanel.

9 Then they allow the opportunity for the
10 public to comment in this process. There's never been
11 a total separation, but I can't think of a time when
12 the scientific recommendation for an allowable
13 biological catch has ever been modified by the
14 council.

15 It's been established and then the council
16 makes decisions based on that information, but if you
17 had that totally separated, I don't see it as being
18 anywhere near as good a system, because having those
19 people from industry involved kind of keeps their feet
20 to the fire and brings in occasionally information
21 that they didn't even think about, so it's a better
22 process because of it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 DR. MURAWSKI: So in that process, what
2 you're doing is you're establishing the best
3 scientific information in a process that you've got
4 the people that are at the ground zero or the data are
5 being collected.

6 You also have the analysts basically
7 working with the information, so the product there is
8 the best scientific information. The real question
9 is, what does the council do with it?

10 Once that's - what you're saying is that
11 basically, the councils always use that information as
12 the basis for setting tax or whatever.

13 MR. FLETCHER: We've got ABC here, and
14 we've got another Y here, and this Y is always at or
15 below the ABC, but councils never have any influence
16 on what that ABC number is.

17 It's been established in a scientifically
18 valid approach, but now that we're doing these STAR
19 panels, the industry has the opportunity to comment
20 throughout the process and while they can't control
21 it, they may try to add to the overall comprehensive -
22 -

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. LEIPZIG: I agree with Bob's comments.

2 I think the industry people will participate in the
3 STAR panel process, trying to resolve inconsistencies
4 in the data, but - been in conflict with each other,
5 and things don't fit and there's an observation that
6 we made that shed some light on it and it's been
7 helpful.

8 In the Pacific Council arena, not to
9 disagree, but just to point out one exception, the
10 process of separating management and science is
11 difficult because we've had situations where how much
12 fish you can catch depends on who gets to catch it,
13 because of the size of the animal, and they may end up
14 having to take a larger amount, because of the
15 relative allocation between different groups, because
16 they're going to catch different kinds of fish and
17 what's available in the population at that time.

18 We have to incorporate it as management in
19 part of the science in order to make the proper
20 decision. You can't separate it entirely.

21 CAPT. O'SHEA: You know, Steve, first of
22 all, this - I probably share other concern, but I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 share the concern of others with this idea of
2 separating management from science isn't the right
3 term, because you end up with a perverse outcome of
4 managers operating without science and that's not a
5 good thing. One of the - embedded in this is managers
6 not listening to the scientists. You want to fix
7 that.

8 There's nothing in your presentation today
9 and it didn't really strike me until I sat and
10 listened to it, so it's not a criticism of your
11 presentation, but even my own thinking, is that it
12 occurs to me that how that scientific advice is
13 presented goes into whether or not it's followed.

14 The issue is consensus. Scientists -
15 excuse the expression - born and bred to disagree with
16 the status quo to find the new science. That's why
17 they're scientists. Yet on the other hand, when they
18 come together as five or six scientists to give
19 advice, they have to really put on a different hat and
20 that is to sort of come to an agreement to give the
21 best available science as opposed to the best science.

22 When the scientists come out with minority

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 reports and don't operate the consensus thing, then in
2 fact they're punting to the managers to sort out and
3 you know even better than I do, there's a whole
4 culture of managers out there that are insisting for
5 flexibility purposes to get the minority reports so
6 that critics say, cherry-pick the science.

7 Along with your question, have you been
8 thinking about ways? I assume the international
9 standard is the scientific advice to evolve out of a
10 consensus process and to avoid minority reports.

11 Have you been giving any thoughts to - do
12 we need to sort of improve that practice in the advice
13 we're giving the fisheries management council? I know
14 we have to improve it in the commission process
15 because we're pulling our hair out trying to deal with
16 minority reports.

17 DR. MURAWSKI: Well, you set up my last
18 bullet real well here, and that is, we're just
19 starting this process of developing guidelines to
20 formalize how we should bridge this science/management
21 gap a little bit.

22 One of the curiosities is we had an NRC

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 review fishery assessment models and part of the
2 review said that we ought to run multiple models and
3 report multiple results so that people understand that
4 the range of potential outcomes - it's like doing
5 hurricane forecasts.

6 When they do a hurricane forecast, they
7 give you the line, but they give you - just so that -
8 be aware that you're on the edge. Now, that's a
9 double-edged sword, as you say, because people will
10 want to pick the edge of that hurricane, depending on
11 the consequences of the outcome.

12 In the interest of transparency, you've
13 got scientists wanting to create better envelopes of
14 uncertainty and data and models, etc. I guess the
15 point here is that this is really ripe.

16 This is a very ripe issue for us to start
17 to negotiate some guidelines and guidance about not
18 the separation of science and management, but the use
19 of science in management, and procedure - how should
20 the scientists operate in terms of describing
21 uncertainty and their knowledge or lack thereof and
22 how should the managers actually operate with this,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with the notion that we need to be risk adverse?

2 We can't be selecting outcomes that
3 necessarily err either always on the side of the
4 resource for whatever, or always way over on the side
5 of the lowest short-term - this is a jumping-off point
6 for this discussion. I really appreciate any kind of
7 discussion from MFAC. I recognize that we're going to
8 start a process that goes hand-in-hand with national
9 standard two to see if we can come up with some
10 guidelines about how to do this rather than writing it
11 in the Magnuson Act.

12 CAPT. O'SHEA: The obvious reaction is the
13 less multiple-choice advice you give the managers, the
14 less multiple-choice behavior you're going to see out
15 of the managers with regard to the scientific advice.

16 DR. MURAWSKI: Well, it's interesting.
17 The North Pacific Council, Pacific Council, and some
18 others. We hear this a lot that we never set a TAC
19 higher than what was recommended by the scientists.

20 Well, when the scientists start
21 recommending a range of TACs based on their models,
22 then - what did they recommend? Did they recommend a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 number or did they recommend a range? This is going
2 to become more confusing, but it's like predicting
3 hurricanes.

4 There's truth in advertising here. Nobody
5 knows where that hurricane's going to go. There's a
6 parallel analogy to fish, frankly. Trying to be more
7 smart about uncertainty on the science side and more -
8 and frankly, some of this comes from some of the
9 councils set in the past - there's history and I know
10 that as much as anybody else.

11 CAPT. O'SHEA: Let me ask you this, Steve.
12 What if - you said the OMB standards for peer review
13 sent chills up and down your spine as a scientist.
14 What about legislative standards for consensus?
15 What's your reaction to that?

16 DR. MURAWSKI: I'd have to think that one
17 out. It would depend on a consensus of what. It's so
18 anti-science.

19 CAPT. O'SHEA: It's so directly to the
20 responsibility of the scientist to make a decision and
21 give advice to managers. I mean, that's why they - it
22 seems to me - the argument is that they can't reach

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the consensus because they can't make a decision, so
2 they're punting the decision to the managers.

3 DR. MURAWSKI: I just see a lot of traps
4 by being more legislative rather than trying to work
5 through guidelines like this. We could think about
6 guidelines like, for example, if there's one scientist
7 who's just being - for whatever reason.

8 I mean, this is the whole point of peer
9 review. I mean, maybe what happens is it goes to a
10 second-level peer review, where if in fact, you've got
11 somebody that's just off in the ozone layer, you have
12 a second-level peer review that says, hey, wait a
13 minute. This doesn't pass muster.

14 Usually, by - most of the peer review
15 processes we have are two-level and that is, you have
16 a number of people assembling it and then you have a
17 totally different panel of people not involved in that
18 that actually review it, and so most of the times,
19 that two-level peer review, you can catch a lot of
20 these things.

21 In terms of rules for consensus, I just --

22 CAPT. O'SHEA: I'm not suggesting that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm asking your reaction to it.

2 DR. MURAWSKI: I would be reluctant to
3 write too much of that in prescriptive law. We ought
4 to see how far we can go with guidelines and seeing if
5 we can come up with a workable thing within the
6 councils.

7 I would encourage actually the
8 commissions, if they're interested in participating in
9 this, maybe we can come up with a set of guidelines
10 that work through the --

11 CAPT. O'SHEA: Well, I would think we have
12 to because quite frankly, science should be science
13 and it shouldn't matter whether it's submitted by a
14 council managing summer flounder or the Atlantic
15 States managing summer flounder or striped bass. I
16 mean, we ought to be - the science ought to be the
17 science and we ought to be all operating to the same
18 standard.

19 DR. MURAWSKI: Yes, the specific
20 mechanisms should be a little different and some of
21 the - it's a good question whether the Data Quality
22 Act actually applies to the commissions or not.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 That's a very good question. We should take that one
2 back.

3 MR. FISHER: We had argued that it didn't
4 and there wasn't a question about it.

5 DR. MURAWSKI: Do you know what the
6 resolution was?

7 MR. FISHER: Well, we think legally, the
8 resolution is that we can do whatever we want.

9 DR. MURAWSKI: Okay, so that's basically
10 what I've got on the science side and again, this is
11 an area that if we do a good job here, we won't get a
12 legislative solution to this thing, which - there was
13 a lot of talk early on about separating church and
14 state here, and luckily, that doesn't seem to have a
15 lot of traction right now, but the more we can put
16 together a flexible set of guidelines that clearly
17 defines the scope, the less likely we'll get some
18 other solution. Thanks.

19 (Whereupon, the above-entitled matter was
20 adjourned and went off the record at 4:46 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701