

U.S. DEPARTMENT OF COMMERCE

+ + + + +

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

+ + + + +

MARINE FISHERIES ADVISORY COMMITTEE

ECOSYSTEM SUBCOMMITTEE AND  
GOVERNANCE WORK GROUP

+ + + + +

Wednesday,  
November 11, 2009

The Ecosystem Subcommittee and Governance Work Group met in the Lincoln Room in the Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, Maryland at 1:30 p.m., Tom Raftican, Chair, presiding.

PRESENT:

- TOM RAFTICAN, Chair
- JAMES BALSIGER
- RANDY CATES
- PAMELLA DANA
- PATRICIA DOERR
- ERIKA FELLER
- MARTIN FISHER
- RANDY FISHER
- GROVER FUGATE
- HEIDI LOVETT
- HEATHER McCARTY
- KEITH RIZZARDI
- ERIC SCHWAAB
- JACK WIGGIN

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

TABLE OF CONTENTS

WELCOME/OPENING REMARKS:

Tom Raftican..... 3

ECOSYSTEM SUBCOMMITTEE/GOVERNANCE WORK

GROUP DISCUSSION ..... 5

ADJOURNMENT:

Tom Raftican..... 92

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 1:36 p.m.

3 CHAIRMAN RAFTICAN: The Ecosystem  
4 Subcommittee had a wonderful spring and fall  
5 meeting with a very, very full plate putting  
6 out a policy to the overall MAFAC on Marine  
7 Spatial Planning and Ocean Policy. And we got  
8 through, you know, I guess fairly substantial  
9 debate at our May meeting and then actually  
10 carried over to one or two conference calls  
11 afterwards. A couple of conference calls  
12 trying to come down and center on, basically,  
13 some policy recommendations that were made to  
14 the Secretary.

15 The Ocean Policy window on that is  
16 actually closed right now, but the Marine  
17 Spatial Planning window is still open on  
18 comments and this is for the task force on  
19 Marine Spatial Planning.

20 We are in a situation right now  
21 where we can still make comments and they will  
22 still be welcome at that level if there are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 any changes that want to go forward.

2 I think one of the things that we  
3 got to hear a little this morning from Jack  
4 and Grover was how these things are actually  
5 working in the real world.

6 I mean, they are out there. They  
7 are being introduced and implemented on  
8 astate-wide basis, almost on a regional basis,  
9 which is something that we are going to look  
10 forward to down the line.

11 But this is actually stuff that  
12 it's where the rubber is meeting the road.  
13 And before we go forward with whether to look  
14 and amend where we were or where we are going  
15 to be, I thought it may be best if we go to  
16 probably first to Jack and say hey, great  
17 presentation this morning. Almost how did you  
18 get there? How did you get from where we are  
19 at to where you are at?

20 Maybe that first step and is there  
21 anything that we can learn along the way, so  
22 that we can help set the stage on a national

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 basis?

2 MR. WIGGIN: Yes, I mean, Grover is  
3 correct. A big driver, we don't so much talk  
4 in terms of the Massachusetts Ocean Plan B  
5 that is planned to accommodate wind renewables  
6 and wind power, in particular. But clearly,  
7 the experience with the Cape Wind Project,  
8 albeit in federal waters, definitely  
9 influenced the catalyst for Massachusetts to  
10 be thinking seriously about how it would  
11 advantage or how it would advantage a similar  
12 project proposed for state waters.

13 I think everybody would have been,  
14 even observing the Cape Wind experience, saw  
15 that there was very little information  
16 available to help reset the decision. And  
17 there really was no framework for decision  
18 making under the proposal like that. And in  
19 some regard, I think the applicant suffered  
20 from that, but I think in some respects the  
21 applicant was comfortable in that. But there  
22 wasn't a structure or process that had to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 adhered to.

2 And came through with a proposal  
3 and assumed that they were going to go through  
4 some time lines and it didn't turn out that  
5 way. And I think we are looking at 10 years  
6 of fumbling around to try to make a decision  
7 on that process and that's not the way to do  
8 it.

9 And certainly, the reasons Grover  
10 was pointing out for something that  
11 potentially is important such as renewable  
12 energy, I think that's certainly not the way  
13 to develop this. Lots of money, lots of money  
14 wasted on that.

15 CHAIRMAN RAFTICAN: I've got 10  
16 years on one hand and we're looking at 90 days  
17 on the other hand. I suspect that what  
18 happens is going to be somewhere in between.  
19 Grover, add anything?

20 MR. FUGATE: Well, I guess it would  
21 be interesting to hear the issues that you're  
22 struggling with, but as I tried to point out

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the presentation, if we have a backdrop for  
2 climate change and we're trying to deal with  
3 it and see it in a new fashion, we're going to  
4 have to shift off fossil fuels.

5 And right now, because it is a  
6 coastal energy issue and most of the Eastern  
7 Coastal States don't have wind base for the  
8 resource, it ends up being a marine issue.

9 Wind is the only viable and  
10 commercial grade renewable energy that is out  
11 there, because looking at the European history  
12 and the development of their industry, they  
13 have 20 years of experience and it is growing  
14 and it is the most rapidly growing industrial  
15 segment in the European countries.

16 And it is a huge industry. It  
17 occupies a large proportion of the oceans. A  
18 lot of what we have been spending our time on  
19 it just trying to understand the European  
20 experience in this issue.

21 What I'm trying to get at though is  
22 that it's going to phase a lot of us as a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 major ocean use output and we need to learn to  
2 get it right the first time, because we can't  
3 afford to make mistakes at this point.

4 One, because the energy source and,  
5 two, because the marine environment in many  
6 cases is so stressed, at this point, it can't  
7 take additional stressors added in. So it's  
8 something that we all need to try to figure  
9 out and figure out fast.

10 CHAIRMAN RAFTICAN: The thing I  
11 hear is clearly energy-driven.

12 MR. FUGATE: Yes.

13 CHAIRMAN RAFTICAN: You know, we  
14 are looking at it from something we have to  
15 recognize, but again, I mean, folks in this  
16 room are kind of looking at it really from a  
17 fisheries viewpoint. And then NOAA on the  
18 larger scale has got to look at, you know,  
19 ecosystem-based, I mean, all of the stressors.

20 MR. FUGATE: -- providing sort of  
21 the incentive and the money, but it's not  
22 driving, at least in Massachusetts and Rhode

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Island's case, it's not really driving the  
2 process.

3 The process in I think both of  
4 those states is trying to understand the  
5 ecosystem for marine uses that are in that  
6 area and the resources we need to protect.

7 We're trying to figure out what we  
8 need to protect first before we go and slide  
9 this development in. So it's a way for us to  
10 get at the management we need and it is  
11 providing into this and so the impetus and  
12 incentive is quickly get out there and do  
13 this, but it's not the driving force behind  
14 the plate.

15 MR. WIGGIN: And I would say if  
16 Gary were here, he would agree with that 100  
17 percent.

18 MR. WIGGIN: All right.

19 CHAIRMAN RAFTICAN: Okay. Eric?

20 MR. SCHWAAB: So the question I  
21 have, sort of the backdrop. I think a lot of  
22 fisheries' interest is to see this Marine

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Spatial Planning concept as, you know, a  
2 little bit scary and not something that they  
3 want to get close to.

4 And I want to actually explore this  
5 a little bit with Jack, because, you know,  
6 this is probably a mischaracterization or an  
7 over-simplification, but, you know, sort of  
8 the fisheries' interest got themselves kind of  
9 set out to the side at the outset of the  
10 Massachusetts process.

11 And I just wonder, and I know that  
12 there was ultimately some consultation back  
13 and a lot of sharing of data, and I just  
14 wonder, from your perspective, what the  
15 implications of that, both positive, negative  
16 or otherwise, were as the effort moved forward  
17 to this point in Massachusetts?

18 MR. WIGGIN: I don't think that the  
19 EPA would in any way be critical of the  
20 legislature having made that decision right  
21 now that's politically necessary in that way.

22 MR. SCHWAAB: Right.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WIGGIN: For those who are in  
2 interested in ecosystem-based management -- I  
3 don't think anybody believes that you can do  
4 it without managing the fisheries in step with  
5 the management of all the other resources and  
6 all the uses that are in the area.

7 So from that point -- and we are  
8 looking forward to an EBM plan, I mean, that  
9 is the ultimate goal. And how that gets  
10 reconciled in the years to come will be an  
11 interesting question, because they can't  
12 resolve it with separate methods.

13 It's not to say that somebody  
14 should take over the fisheries management  
15 statewide, because there needs to be some sort  
16 of reconciliation.

17 MR. SCHWAAB: So were there  
18 problems or missed opportunities, in your  
19 opinion, as a result of the way that  
20 legislation was constructed?

21 MR. WIGGIN: In terms of that?

22 MR. SCHWAAB: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WIGGIN: I don't think that  
2 there was really going to be any other way  
3 that that was going to come out.

4 MR. SCHWAAB: You're not answering  
5 my question.

6 MR. WIGGIN: Yes, but I --

7 CHAIRMAN RAFTICAN: We've got a lot  
8 of punting going around the table.

9 MS. LOVETT: Weren't some normally  
10 strong fishery-related managers actually  
11 heavily involved in the early part of the  
12 process though? And they helped design it.

13 MR. WIGGIN: The planning process?  
14 Oh, absolutely.

15 MS. LOVETT: Yes, they actually  
16 helped probably --

17 MR. WIGGIN: The head of PMF is  
18 Vice Chair of the Ocean Advisory, so there is  
19 no question that they were all working  
20 together. I think that is what has happened,  
21 is that there is a recognition that those --  
22 that is everybody's way to work together.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   But on the other hand, he is  
2 holding the cards that we are not subject to  
3 get.

4                   CHAIRMAN RAFTICAN: Erika?

5                   MS. FELLER: Well, I guess I'm  
6 curious in Rhode Island. When you got the  
7 fishermen to share location fishing data with  
8 you?

9                   MR. FUGATE: Yes.

10                  MS. FELLER: What kind of issues  
11 did you run into and how did you deal with  
12 their confidentiality concerns? I mean,  
13 because you've got a public process, right?

14                  MR. FUGATE: Yes.

15                  MS. FELLER: And I mean, we have  
16 this issue. You know, we collect data from  
17 fishermen, but we are a private organization.  
18 We don't have to share it.

19                  MR. FUGATE: Yes.

20                  MS. FELLER: I mean, is that  
21 subject to like, you know, some kind of FOIA  
22 review? Because even if it's aggregated,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 fishermen still get worried about sharing  
2 information on their favorite spot.

3 MR. FUGATE: Yes. Well, the data  
4 that we saw that we were gathering is usually  
5 -- is gathered on the states, seasonal use and  
6 airtight. The individual that collected it,  
7 when we started out, was actually on a Sea  
8 Grant for fishery extension.

9 And that builds up a trust with the  
10 fishermen. And so he was able to go and --  
11 lot of meetings, a lot of night meetings with  
12 fishing groups, but we had to trust those  
13 groups that when they gave the data, it was  
14 not going to abuse the data about any of the  
15 resources or disclose any significant areas  
16 unless they wanted to.

17 They are subsequently coming back  
18 to us now and indicating defined fishing  
19 grounds that they do want us to protect. And  
20 we will -- this is one of the interesting  
21 issues. We are out in federal waters even to  
22 get into that, but you can because of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 systems.

2 So if the state identifies an area  
3 that is important to its fisheries, they can  
4 use the Federal Consistency Authority to the  
5 Coastal Program and to influence federal  
6 licenses for authorizations in the coastal  
7 areas.

8 So we had explained that to the  
9 fishermen, so they saw that as an advantage to  
10 the process beyond just getting this data,  
11 that it is actually going to be advantageous  
12 to them, plus the fact they were able to  
13 influence the process to get a location that  
14 they could live with, rather than having one  
15 rammed down their throat.

16 And they also realized that this  
17 was a first of many. So they wanted to get  
18 ahead of the curve and have some say up front,  
19 rather than react project by project by  
20 project.

21 MS. FELLER: So basically,  
22 essentially fishermen --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FUGATE: There is a lot of  
2 trust there.

3 MS. FELLER: Well, I mean, but it  
4 also seems like the fishermen came around to  
5 understanding that Marine Spatial Planning  
6 process can be used to protect their fishing  
7 grounds, not to just, you know, hey, this is a  
8 good place where there is fish.

9 MR. FUGATE: Right.

10 MS. FELLER: This is a protected  
11 area here.

12 MR. FUGATE: Yes.

13 MS. FELLER: So --

14 MR. WIGGIN: And Massachusetts did  
15 exactly the same thing. Went down all along  
16 the coast and interviewing fishermen sitting  
17 down with them, it was a trust building  
18 exercise and getting the information about  
19 fishing that they were looking for, which is  
20 the reason you just said -- because the people  
21 putting the plan together needed to know what  
22 the fishermen considered to be those areas of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 highest value.

2 MR. FUGATE: And if there are  
3 important constituents to California. I just  
4 attended -- we had a conference at Rhode  
5 Island looking at these platforms, these  
6 ecosystems and what it means to the marine  
7 environment.

8 And there was an individual there  
9 presenting -- North Carolina went through a  
10 very similar sort of spatial exercise. And  
11 UNC is doing the actual planning one.

12 So the person that was in charge of  
13 UNC making the presentation, at the end this  
14 person was off to the side and nobody knew who  
15 he was, it just so happens there was a fishery  
16 meeting in Newport, he saw a sign and gave a  
17 presentation he represented the North Carolina  
18 Fishermen's Association.

19 And after the presentation was  
20 through, he said he needed to talk to us.  
21 We've got real problems with your areas and if  
22 you don't work with us, we'll see you in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Raleigh.

2 CHAIRMAN RAFTICAN: A good point.  
3 Patty?

4 MS. DOERR: To go back to  
5 Massachusetts and how they pulled out  
6 commercial and recreation issues, it's not --  
7 the way I understood it from the presentation  
8 is, tell me if I'm right on this, it's not  
9 that they are not included at all, because you  
10 did look at impacts on fishing grounds and  
11 everything, it was just that the Ocean  
12 Management Plan did not govern the management  
13 itself of fisheries catch and all that stuff.

14 And so I would equate that on the  
15 federal level as the Regional Fishery  
16 Management Council's retaining their full  
17 jurisdiction for the fisheries, but Marine  
18 Spatial Planning is still a complete impact on  
19 the fisheries.

20 MR. WIGGIN: That's exactly right.  
21 Because when you look at the list of uses  
22 that the Coastal Management Plan is managing,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it's a finite set of uses. But what it leaves  
2 out is those uses that are not managed.  
3 Commercial and recreational fishing,  
4 recreational boating, two categories. Those  
5 are uses that are allowed in the ocean  
6 planning area.

7 And knowledge about those uses is  
8 used in the plan to influence how decisions  
9 are made about the uses that are handled.  
10 Like I said, let me be clear, you had them  
11 perfect.

12 MS. DOERR: Okay.

13 MR. WIGGIN: The other uses are  
14 managed so that they don't negatively impact  
15 those uses, commercial and recreational  
16 fishing, recreational boating.

17 MS. DOERR: And then the -- so they  
18 don't -- on a national level, the Regional  
19 Management Council, the state fisheries, would  
20 use the information from the planning in their  
21 own management action?

22 MR. WIGGIN: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. DOERR: Okay.

2 MR. WIGGIN: And if you look at the  
3 European plans, you will see a number of those  
4 do the same thing. The fisheries aren't part  
5 of the Marine Fishing Plan.

6 MS. DOERR: Okay.

7 MR. FUGATE: And that will -- there  
8 are some bad examples out there and there are  
9 some good examples out there. We really need  
10 to figure out which is which. Most of that  
11 has been done by an organization called Valley  
12 State, which is essentially the property  
13 manager.

14 They had been doing that, because  
15 they have a fair return back to the to people  
16 of England from their resource. So a lot of  
17 their modeling in spatial planning has been  
18 done on the economic tradeoff side. When you  
19 go highest and best use, the fishermen loose  
20 every time.

21 MS. DOERR: Okay.

22 MR. FUGATE: So you have to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 careful. A lot of those areas in Europe, when  
2 a wind farm goes in, it's essentially a set  
3 aside. The fishermen are not allowed in, at  
4 least currently they are not allowed in.

5 CHAIRMAN RAFTICAN: We will get  
6 back on that. Heidi, do you have a question?

7 MS. LOVETT: Well, I guess a  
8 comment or question first mostly for Jack, but  
9 maybe for both of you. You mentioned in  
10 particular special, sensitive or unique areas.  
11 You called them SSUs. And right away,  
12 because I have worked on this in the Gulf, it  
13 sounded like HAPCs, what we call HAPCs,  
14 Habitats Area of Particular Concern, because  
15 it's the very same thing.

16 And for Essential Fish Habitat, the  
17 Fishery Service has with counsels and states  
18 worked on identifying, in some cases the same  
19 thing, ecological value using some type of  
20 ecological evaluation index.

21 So I'm curious how, if in your case  
22 there was -- if you were able to use and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 benefit from, and I don't really know what has  
2 been happening in New England on Essential  
3 Fish Habitat exactly, but if you are able to  
4 sort of use and benefit from what NMFS or the  
5 Councils had done or after the fact, was there  
6 any comparison and do some areas that are  
7 identified as these HAPCs match up with your  
8 SSUs?

9           Because I think that's kind of --  
10 because that is another thing that the Fishery  
11 Service does use to help protect, you know,  
12 significant areas.

13           MR. WIGGIN: Yes. I think that the  
14 SSU was identified in the legislation, but not  
15 defined what that was. So we were just  
16 planning to decide what a special, sensitive  
17 or unique resource would be.

18           And as far as I've gotten at this  
19 point is that they sort of defaulted to those  
20 species of special status through these laws  
21 and regulations that exist already on an  
22 individual basis. But there was a belief that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there needed to be some SSUs or something more  
2 than that or something different from that.  
3 And Essential Fisheries Habitat, I think and I  
4 would have to look at the map, but much of the  
5 ocean area that you are talking about has been  
6 identified as that.

7 MS. LOVETT: Yes.

8 MR. WIGGIN: So that in and of  
9 itself --

10 MS. LOVETT: But almost every place  
11 can identify an Essential Fish Habitat.

12 MR. WIGGIN: Right.

13 MS. LOVETT: However, the  
14 regulation for EFH says that, and I think  
15 there is four criteria, and by these various  
16 criteria if it's a very pristine area that is  
17 very unique, and area that is unique, but is  
18 threatened, I'm going to get this wrong.  
19 There are a few others. Has high use by  
20 multiple, multiple federally-related species,  
21 the ones we manage for. And I forgot the  
22 rarity. Yes, the rarity, there is four

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 issues.

2 So they have tried to -- and it has  
3 been used more and more since the regulation  
4 to identify tinier, more significant spots and  
5 to, in a relative sense, give it a higher  
6 priority compared to the EFH overall.

7 MR. FUGATE: Yes.

8 MS. LOVETT: And then on the  
9 regulatory side, our habitat staff, around the  
10 country, when they go to review MMS permit  
11 applications and FERC stuff and all this other  
12 activity, they balance that activity against  
13 is it going to impact the EFH and is it going  
14 to impact in particular those habitats of  
15 particular concern? And try to base their  
16 comments on that.

17 MR. WIGGIN: That's what they  
18 should be able to do.

19 MS. LOVETT: Okay.

20 MR. WIGGIN: Where we are at the  
21 moment. We're not there yet.

22 MS. LOVETT: Okay.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. WIGGIN: If you wanted to see  
2 where Massachusetts is on that, Volume 2 of  
3 the Ocean Plan contains a chapter on the  
4 evaluation in that sense. And a number of  
5 things affect it. One is the data problems  
6 for one thing.

7 MS. LOVETT: Yes.

8 MR. WIGGIN: And then the other  
9 problem was getting to review, how do you rate  
10 those various factors across all of these  
11 different arrangements in order to reveal  
12 those areas that are highest value and of  
13 greatest concern.

14 MS. LOVETT: Oh, okay.

15 MR. WIGGIN: But that's the  
16 outcome.

17 MS. LOVETT: Great.

18 CHAIRMAN RAFTICAN: Heather?

19 MS. McCARTY: Thank you. I was  
20 going to say pretty much what Heidi did about  
21 how fishing and recreational fishing is being  
22 dissected from the plan either one way or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 another. It sounded as though in case of  
2 Jack, it was accepted by statute and then in  
3 Grover's case, it was accepted, how it was  
4 accepted.

5 How did it become not -- well,  
6 because it seems like the outcome was similar,  
7 that there were places set aside for both  
8 recreational and commercial fishing that were  
9 not touchable by any other endeavors. And it  
10 seems to me that then you are assuming some  
11 sort of priority system.

12 And I guess one of the things that  
13 we need to grapple with just to bring it back  
14 to what we are talking about is how are those  
15 priorities set? Who sets them? What's the  
16 process? How does it all become the way it is  
17 already in your area? How do we get there?

18 And I think a lot of our concerns  
19 with the commercial standpoint, and I know  
20 from the recreational standpoint, are just  
21 that. How do we do that? Do we do it by  
22 statute?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           You said something about both sides  
2 of the table were happy with this process.  
3 But you said the development people were  
4 happy, because they had clarity and the  
5 environmental people were happy, because they  
6 had clarity and expectations.

7           But it seems to me that there is  
8 also a push and pull going on within the  
9 development community, if you will, of the  
10 various industries, the various developmental  
11 -- you know, the resource users on that side  
12 of the table.

13           How do you prioritize those uses?  
14 So I think just to relate their experiences to  
15 what we might comment on, I see it missing  
16 from the discussions that I have seen so far.

17           I see that discussion missing in the  
18 discussions that I have seen of the Marine  
19 Spatial Planning and the Ocean Policy stuff.

20           I haven't seen the prioritization  
21 of current uses really adequately said in any  
22 way.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN RAFTICAN:     Maybe another  
2 way of putting that is that, and correct me if  
3 I'm wrong, but, when you look at whether it is  
4 recreational or commercial fishing, there is,  
5 essentially, carte blanche right now.     And  
6 anything even though we say we are going to  
7 honor where you're at, it's a net loss.

8                   Has there been any way of looking  
9 at potential gains at the same time.     And I  
10 don't know, I'm a big fan of artificial reefs  
11 and I'm a big fan of fisheries enhancement.  
12 And I think that there are other drivers  
13 there.     I don't know.     I'm just throwing this  
14 stuff out.     And again, I think -- yes?

15                  MR. FUGATE:         Well, there's two  
16 things at work here, I think.     And one is the  
17 fish resource itself.     Trying to figure out  
18 the areas, the habitats that they need.

19                  So what we are trying to do is go  
20 through an Essential Fish Habitat mapping  
21 process.     Then there is the fishermen and  
22 where they tend to fish a lot, which probably

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are in some of these habitats.

2 And so we are ending up sort of  
3 protecting both in one swoop by honoring the  
4 fishery, because we have to as part of the  
5 program. So it's one of those things that we  
6 would do naturally.

7 The habitat is something else that  
8 we are supposed to look at and protect, so  
9 that is something we do naturally.

10 The enhancement side, I was at this  
11 conference in Newport for three days, there  
12 were -- the Germans have started to look at  
13 this very much in terms of structures and  
14 trying to pair them up with aquaculture and  
15 increase productivity.

16 There is also a lot of work done by  
17 MMS on structures. And one, the actual reef  
18 effect is -- both in the Gulf and California  
19 and Alaska and what they mean to the system.  
20 There is in many structures an increase in  
21 biomass.

22 There is definite increase in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 biomass when you look at the European studies.

2 There is an increase of biomass. Whether  
3 that biomass is displacing another community  
4 becomes the question. And oftentimes it seems  
5 that you are putting structures in areas where  
6 they can't be concentrated on.

7 Is the beneficial? I don't know.  
8 I don't know.

9 CHAIRMAN RAFTICAN: Not if we can't  
10 go there.

11 MR. FUGATE: Well, we may not --

12 MS. LOVETT: Just a little.

13 MR. FUGATE: One of the issues  
14 right now that you should be aware of as we go  
15 through this, we are looking at placing  
16 limitations close to our MMS. However, one of  
17 the discussions that we had with the fishermen  
18 is that they go through a co-op to get their  
19 insurance. And their co-op then negotiates  
20 with Lloyds of London.

21 Lloyds of London insures many of  
22 the fishermen in Europe and will not let them

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the wind farms, because of the liability  
2 issues. So they may be prohibited from  
3 getting in the wind farms, not because of a  
4 regulatory issue, but because of an insurance  
5 issue and being able to gain access.

6 Particularly the drivers, because  
7 they are the ones that have the most  
8 restrictions trying to navigate amongst these  
9 and are probably the most apt to have an  
10 accident.

11 MR. WIGGIN: One other thing we  
12 learned in Europe -- they set aside the areas  
13 for wind development as part of their  
14 regulatory process. That may be a condition  
15 that is not a function of governance.

16 CHAIRMAN RAFTICAN: I suspect we  
17 may have issues with TSA, because anything  
18 that looks like it's a soft target is getting  
19 circled. I know in our harbors and, you know  
20 -- I imagine you could talk to that.

21 MS. LOVETT: Do you know if the oil  
22 rigs now get fishing activities in the Gulf?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN RAFTICAN:     In the Gulf  
2 they do.

3                   MS. LOVETT:     Right.   And they turn  
4 into routes, yes.

5                   CHAIRMAN RAFTICAN:     Yes.    One of  
6 the things I want to bring up and it goes  
7 right to this is about two weeks ago at  
8 California we are looking at the opportunity  
9 of reefing a lot of the -- decommissioning and  
10 reefing the offshore platforms.

11                   And we actually helped fund a study  
12 last year that will officially be out by the  
13 end of next month.   And the very interesting  
14 thing they did is they put together experts on  
15 it initially and then they have got a science  
16 team that is going to come in second.

17                   The experts went out there  
18 initially and what they did is instead of  
19 saying you can do this, you can't do that,  
20 they simply created a model.   And the model  
21 really, I don't know the total number of  
22 variables.   I guess there are probably 50 or

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 75 variables that will end up going in there.

2 But you can weigh the variables  
3 going in there and come out with a fairly  
4 decent picture of what is going to happen. If  
5 you do A, the ramifications are B, C and D.

6 We will have the expert scientists  
7 going in and try to put the initial weighted  
8 values in there to find out what is going on,  
9 but the model was created. And I'm wondering  
10 if, you know, what I see here is actually a  
11 perfect opportunity for developing modeling on  
12 a grand scale of things?

13 I mean, we all have got irons in  
14 the fire and it is good to know if you do A,  
15 what happens to C? Does that make any sense  
16 at all?

17 MR. FUGATE: What are the models  
18 looking at?

19 CHAIRMAN RAFTICAN: The models will  
20 be looking at -- we're looking at, you know,  
21 ecological value, water quality. I mean, it's  
22 a broad range of things. Interaction with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 fisheries and again, we will have, you know,  
2 trawl interactions along with recreational  
3 fishing interactions.

4 HAPCs, I'm not sure that they were  
5 declared HAPCs. I know there were areas of --  
6 there was concern. I don't know if high  
7 value, but all of the -- you have got a lot of  
8 different factors there and it's wondering  
9 what you are going to come out with.

10 A lot of the things that we are  
11 dealing with there also are if you take this  
12 out, what's the carbon footprint? If you are  
13 bringing a removal barge from the North Sea,  
14 what's the carbon footprint? And it doesn't  
15 matter whether it is California or, you know,  
16 I mean, worldwide.

17 So I mean, there is a -- you know,  
18 you think you're taking a couple of rigs out  
19 and the implications were very broad.

20 I was just thinking of it actually  
21 earlier today that looking at Marine Spatial  
22 Planning, is there a capacity to start putting

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 together models so that your experiences in  
2 Rhode Island, yours in Massachusetts we can  
3 share those in the Gulf of Mexico? And I  
4 don't think that they answer all of the  
5 questions, but it certainly would shine -- you  
6 know, it would make the playing field at least  
7 feel like it's a little more level.

8 I mean, because, first of all, you  
9 recognize that you are in the process and the  
10 other thing is we all have the opportunity to  
11 go in and fight for the weights that we think  
12 are important on each one of these things,  
13 because you can weigh, you know, air quality  
14 versus, you know, water quality pulling these  
15 things off the bottom.

16 MR. FUGATE: So the model you are  
17 looking at was for rig decommission?

18 CHAIRMAN RAFTICAN: Simply for rig  
19 decommission and, basically, for rig  
20 decommissioning in California. I mean, it's  
21 designed specifically for that.

22 MR. RIZZARDI: A real quick

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 question, just from a matter of process, have  
2 you learned any lessons about renewable  
3 energy?

4 MR. FUGATE: Well, we started out  
5 as a joint process with knowing that we were  
6 going to get into this and knowing that we  
7 were going to be focusing on renewable energy.

8 And knowing that we have two jurisdictions we  
9 were looking at, state waters and federal  
10 waters, we started out approaching Army Corps  
11 and MMS from the beginning and asked that they  
12 participate in this process.

13 So that has been helpful, because  
14 it can broaden other federal agencies that  
15 have been typical partners. So we have had  
16 meetings. We have had Fish and Wildlife. And  
17 made it helpful in getting those partners to  
18 the table. So I think partnerships and  
19 bringing them in early is key.

20 The other thing that I think is  
21 important to get started early on is to  
22 alleviate a lot of fears and reduce the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 tension and get a stable process in place and  
2 start them out in the beginning, because if  
3 they feel that they are part of it from the  
4 beginning, there is a lot less tension and a  
5 lot more willingness to engage, than if they  
6 have been brought in at the end instead of at  
7 the beginning.

8 So those are two things that I  
9 would like to see.

10 MR. WIGGIN: I think those are both  
11 good. In Rhode Island's case, they are using  
12 a special area framework which allows -- I  
13 mean, there is a mechanism for that  
14 federal/state coordination, Massachusetts  
15 doesn't use the same framework, so we didn't  
16 really have that.

17 We engaged the federal agencies early on, but  
18 there isn't a framework necessarily for what  
19 the feds do and the states to coordinate  
20 decision making for that. So that has to be  
21 something that will come along eventually.

22 I think the important thing is the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 cost and the importance of quality data and  
2 the ability to get that data. I think it was  
3 you that was talking about needing to get the  
4 data that exists and having agreements among  
5 the agencies for these data.

6 So if agencies that had it  
7 understood and recognized the value of that,  
8 maybe that process would come. Massachusetts  
9 had the same experience. I think what we  
10 realize is how poor the data was in a lot of  
11 cases and how much time and effort it is going  
12 to take to get that data to a place where we  
13 can actually base decisions.

14 MR. FRANKE: One additional  
15 question. What kind of process would you  
16 recommend, financially, to do that?

17 MR. FUGATE: If you can get it, I  
18 mean, I'd get enough funds for the entire  
19 area, but most -- realistically, we didn't  
20 have that option. We had to focus in on areas  
21 which is why we went through a lot of that  
22 screening. We need the science end to do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 better with some of this area just from a  
2 habitat perspective, And then, what we had to  
3 do, because we're looking at Geotech stuff, we  
4 have got -- it's an acoustic system, it can  
5 get down to 50 meters in the trench -- side  
6 scan and multi-beam.

7           And they've got systems that couple  
8 both of those in the same platform now, and  
9 get them so that they are doing both at the  
10 same time, which is what we did, so it's very  
11 efficient, but, you do that for your high  
12 priority areas if you are starting to focus in  
13 on it, you know we're going to see development  
14 pressures or if you want, other areas that we  
15 suspect are high habitat values, you may want  
16 to do it for those, even though you know they  
17 are not going to have development pressure  
18 just to prove it, but certainly within the  
19 areas that we know we're going to experience  
20 development pressure, we should be targeting  
21 those areas to understand what the habitats  
22 are.       This stuff is invaluable, it's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 absolutely invaluable.

2 MS. McCARTY: One of the things  
3 that I think would be interesting to hear from  
4 these folks is how they think best to approach  
5 coordinating with federal initiative. I know  
6 that both of you, I think, mentioned that you  
7 would like to know how to interact with the  
8 federal planning process.

9 How can we learn from that? What  
10 do you think we need to do to bring the states  
11 that do have what you have into the federal  
12 area?

13 MR. FUGATE: Well, I think there  
14 has to be, in what was suggested from the  
15 state's perspective, at least, is that the  
16 federal partners have to engage in the  
17 process, whether that's a mandate to engage or  
18 some sort of incentive process, we need the  
19 federal partners in this. This will be a  
20 useless effort unless we can get groups  
21 sitting down and helping us figure this out.  
22 And they have to see that it's an investment.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           Yes, it's time intensive and it's a  
2 pain, but it saves you a lot of time on the  
3 back side, because once you start to lay this  
4 out and segregate out areas, you have taken a  
5 lot of stuff off the table that you don't have  
6 to face over and over again.

7           I can say that from our own  
8 program's perspective. We allow docks in  
9 certain areas and we don't allow docks in  
10 certain areas. We allow marinas in certain  
11 areas and we don't allow them in certain  
12 areas.

13 I don't have to fight that battle on a piece  
14 by piece shoreline battle, so it's simplified  
15 my life greatly. And by getting as much  
16 specification in terms of the process, in  
17 terms of what we expect from applicants, it  
18 tremendously simplifies the process.

19           My targeting team spent hours  
20 sitting and consulting with people trying to  
21 show them, until we finally acted on it and  
22 took the time to set out in detail what we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 needed from them, when we needed it from them,  
2 who it had to be collected by, and we wouldn't  
3 accept anything less than that. Once we did  
4 that, it was an immense load off of our  
5 shoulders that was spent because the  
6 expectations had been cleared up on both  
7 sides. But engagement is key on this, because  
8 otherwise, it's a useless exercise.

9 CHAIRMAN RAFTICAN: And you are  
10 saying federal engagement was key to what you  
11 were doing?

12 MR. FUGATE: Yes.

13 CHAIRMAN RAFTICAN: I think we are  
14 sitting here looking at the Congress -- I'm  
15 sorry, did I --

16 MS. McCARTY: No, go ahead.

17 CHAIRMAN RAFTICAN: You know, you  
18 folks are leading on this one. The feds are,  
19 you know, essentially coming in and saying  
20 we're going to do Marine Spatial Planning and,  
21 you know, the most contentious areas are going  
22 to be, obviously, near shore.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   How do we bring the states along?  
2 How do you -- I'm not sure that you are the  
3 one to answer the question.

4                   MS. McCARTY:   How the states will  
5 bring the feds along.

6                   CHAIRMAN RAFTICAN:       Well, no,  
7 that's what you are saying.

8                   MS. McCARTY:   Yes.

9                   CHAIRMAN RAFTICAN:       But I'm  
10 wondering on a grand scale of things, are all  
11 the states in on this? No, and I don't see  
12 that.

13                   MS. McCARTY:   But for the states  
14 that are, I mean, this is simplifying the  
15 issue, but do the feds come in and say this is  
16 how it's going to be and the states go okay?  
17 You know what I'm saying?       It's a  
18 jurisdictional, philosophical --

19                   CHAIRMAN RAFTICAN:       The states'  
20 rights. I mean, there are a lot of things  
21 involved in this.

22                   MS. McCARTY:   Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FUGATE: We both teach it. And  
2 I teach coastal zone management at the college  
3 level. So it's something that I laughed about  
4 because it's something I go over with my kids.

5 The coastal zone management program is a  
6 voluntary program. As a result, it's got  
7 weaknesses, and they're glaring weaknesses.  
8 And it's a result you either mandate Clean Air  
9 Act, Clean Water Act or mandates for the  
10 federal minimums. The feds will do it for the  
11 stakeholder for the delegation agreement, but  
12 somebody is going to do it.

13 That is a much more successful  
14 model, either that or you have to have a very  
15 big carrot, because one of the classic lapses  
16 and a terrible waste of energy and effort, has  
17 been 6217, the Nonpoint Source Pollution  
18 Program. It is the largest source of  
19 pollution in our state and nobody is really  
20 getting a handle on it. And we have a program  
21 in place trying to deal with it, but many  
22 states don't even have the programs in place,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 because they have weighed what the loss would  
2 have been in revenue from the federal  
3 government versus the cost of implementing and  
4 they said, you know what, we don't want any  
5 part of it.

6 CHAIRMAN RAFTICAN: Be careful what  
7 you wish for.

8 MR. FUGATE: That's if you wanted  
9 to --

10 CHAIRMAN RAFTICAN: We've got a  
11 coast keeper out in California that has got a  
12 very good attorney. And I will tell you the  
13 communities are paying.

14 MR. FUGATE: Yes. If you want  
15 engagement, it's either got to be mandated, I  
16 mean, if you want it coast-wide, it's either  
17 going to be a mandate or you got to have a  
18 very big carrot or a very big stick that is  
19 there. There certainly will be states without  
20 the stick. This is -- even in our region we  
21 were just discussing Connecticut, because they  
22 don't have the wind resources, it's not the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 driver.

2 And they really don't have the political  
3 engagement within the state to start this  
4 exercise. So I doubt we will see Marine  
5 Spatial Planning in Connecticut for the next  
6 decade at least, unless somebody comes in and  
7 says you shall do this. And there is going to  
8 be a gap in our region.

9 So if you're talking about regional  
10 Marine Spatial Planning, there will be gaps.

11 MR. WIGGIN: Just coincidentally,  
12 my institute is on a team that has been hired  
13 by MMS to do a space use conflict study on  
14 both the Federal Waters in Atlantic Coast and  
15 Pacific Coast and what our charge is is to  
16 determine what the use patterns are in federal  
17 waters and then determine what kinds of uses  
18 can coexist.

19 CHAIRMAN RAFTICAN: Right.

20 MR. WIGGIN: Theoretically. Not  
21 that there are conflicts that exist today, but  
22 what are the uses that are out there now? And

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what areas of the federal waters are they  
2 using? What are the likely uses in the  
3 future? And then what are the real and  
4 potential conflicts among all of those uses?

5 And the purpose of that is that  
6 those be used for their deciding authorities.

7 And I, frankly, don't know how that fits into  
8 anybody's scheme of a Comprehensive  
9 Administrative Plan.

10 CHAIRMAN RAFTICAN: I wonder is  
11 there a clearinghouse for information like  
12 this?

13 MR. WIGGIN: When we were at --  
14 both Grover and I were at NROC meeting a  
15 couple of weeks ago, we were out there on  
16 different days, but I was part of -- I was one  
17 of 10 people making a very brief presentation  
18 on work we were doing and what MNS work.

19 And there were nine other people  
20 reporting similar types of research efforts.  
21 And a couple of them amazingly similar being  
22 done by -- being funded by different agencies,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 so there is --

2 CHAIRMAN RAFTICAN: So they're not  
3 talking to each other.

4 MR. WIGGIN: Actually --

5 MS. LOVETT: But there is a  
6 consensus room they're sitting in, you know.

7 MR. WIGGIN: -- that's up on the  
8 web, too, so if you're interested in seeing  
9 what those were. And we made a presentation  
10 and were amazed, somewhat amazed at what was  
11 being done in terms of different groups doing  
12 what appears to be close to the --

13 MS. LOVETT: But there is a big  
14 International Coastal Zone Management  
15 conference and, I mean, there is an attempt to  
16 get together a couple times every year at  
17 different conferences to bring similar things.

18 But on the ground there is so much going on,  
19 it is almost impossible to keep, you know, an  
20 up to date clearing house of everything that  
21 is going on.

22 CHAIRMAN RAFTICAN: Any other

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 questions or comments? Okay. Gentlemen,  
2 thank you very, very much. This is quite  
3 helpful finding out how it is working, this  
4 is, you know, being put in place. And it  
5 looks like from the scope of your things,  
6 where you are 30 miles out, you are, you know,  
7 basically, well beyond state water, so it gets  
8 into the area of probably the primary that we  
9 are going to be looking at around.

10 MS. LOVETT: I do have one  
11 question.

12 CHAIRMAN RAFTICAN: Heidi?

13 MS. LOVETT: Since you are -- I  
14 know you are fairly new to NROC, relatively  
15 speaking, you said you are kind of new to the  
16 group. But I mean, do you think that that  
17 group which has -- I recognize that that group  
18 has been a little bit out there on Marine  
19 Spatial Planning compared to the other  
20 Regional Councils, but understanding where it  
21 is at, do you think it has the capacity to  
22 actually be the, you know, sort of hub for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 both the federal and state working together?

2           Because that is a question that Sam  
3 has brought up. That's an interest of some  
4 Members of the Interagency Task Force. And  
5 that was a statement that we had ourselves is  
6 to strengthen the successful existing entities  
7 or regional collaborations, rather than trying  
8 to recreate the wheel or create something new  
9 that then might appear to be conflicting with  
10 existing groups or I don't want to say, you  
11 know, challenging them or whatever.

12           Why put a new entity out there if  
13 there is something there? So does it have the  
14 capacity? And do you think it has the  
15 interest in being, if it is given some support  
16 in resources by the federal agencies, being  
17 that nexus for the work in the region?

18           MR. FUGATE: Yes. It has the  
19 capacity to coordinate and to bring common  
20 interest to the table. And one of the things  
21 that we have been kind of in point on is that  
22 we are gathering databases that are put

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 together on a state-by-state basis.

2 MS. LOVETT: Right.

3 MR. FUGATE: Normal data, avian  
4 data, migratory; we get it on a state-by-state  
5 basis. Those should be regional data sets  
6 that are being gathered and looked at in that  
7 capacity. One of the key issues is that the  
8 reason I was newly in line was --

9 MS. LOVETT: Okay.

10 MR. FUGATE: Well, you have to be  
11 able also to specify if you want to have that  
12 input vis-a-vis on the terms of the not so  
13 much the person, but the office.

14 MS. LOVETT: Right.

15 MR. FUGATE: A lot of the more  
16 Coastal Zone offices that have been placed on  
17 the map put their own policy people out of  
18 their office on it. And that's when you tend  
19 to start to have the failure and people will  
20 deal with this on a day to day basis. Then  
21 you get gaps in coordination.

22 So they were after me for several

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 years to come up. I had a point in starting  
2 this out and it's a similar start up time as  
3 we got in to it, it became obvious when we  
4 began to start coordinating. It does have the  
5 capacity to do that, but you've got to be  
6 careful when specifying what types of people  
7 need to be there, so that you don't end up  
8 with --

9 We get some political appointments  
10 that are just political appointments and then  
11 there are some that are very good. There are  
12 some that are not. And that's true with  
13 Agency people, too, but at least you have  
14 better chance of getting someone --

15 MR. WIGGIN: I looked at where we  
16 are with this and NROC probably needs to deal  
17 with the Policy Task Force. And I mean that  
18 struck me as NROC's position.

19 CHAIRMAN RAFTICAN: Randy?

20 MR. RANDY FISHER: You may have  
21 mentioned this, but was there much discussion  
22 on which scale you do this stuff at? Because

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 scale is important and we get virtual mapping  
2 on the West Coast as part of the Environmental  
3 Impact Statement for groundfish and we ran  
4 into scale issues real fast. So I guess I  
5 have two questions, number 1: Whether there  
6 is a scale that make sense?

7 And the second question is what do  
8 you recall when you went off-shore a certain  
9 distance? And whether or not that saved you a  
10 lot of heartache.

11 MR. FUGATE: Well, I think that  
12 they were in State Waters. We were 30 miles  
13 offshore.

14 MR. RANDY FISHER: Right. But then  
15 also you didn't go in. You were like a third  
16 of a mile off at the start.

17 MR. WIGGIN: Yes, and our map shows  
18 some data in the Federal Waters as well, only  
19 because the data sets were met and that  
20 relationship was brought, so we had the data  
21 sets on that.

22 MR. FUGATE: And when you get into

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a project, the scale is everything. I guess  
2 what I'm trying to show there is, one, the  
3 fact which we had to face early on is we had -  
4 - even \$8 million is not a great deal of money  
5 when you start talking marine platforms and  
6 start re-gathering the three dimensions or  
7 four dimensions of data.

8 So we had to learn to focus and get  
9 smart about where we were collecting sensitive  
10 data. So that's why I went through the  
11 screening analysis to show you a way for us to  
12 get to some areas where we had to get detailed  
13 information but do it smart, because you want  
14 to get detailed information when it comes to  
15 project analysis.

16 But you don't generally have the  
17 money or time to do that for all the areas.  
18 So then you start to have to make choices.  
19 I'm just trying to give you an example of how  
20 we got to where we were by using the screening  
21 techniques that helped us.

22 The scale is everything.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   MR. WIGGIN:       That's a great  
2 question. And I would say that the scale that  
3 we used in order to identify those areas that  
4 we preserved for renewable energy grids leads  
5 us to believe that those areas have  
6 suitability. But of course, when the  
7 developer goes in to post the project, they  
8 will be working in scale of data gathering  
9 that we -- that they'll be required to do  
10 that.

11                   So I guess it depends on what you  
12 are attempting to do. You know, how far are  
13 you to get somewhere? And I think the  
14 planning level is a choice.

15                   MR. FUGATE:   Associated with the  
16 scale is the level of risk you assume, too.

17                   MR. WIGGIN:   Yes.

18                   MR. FUGATE:   We weren't willing to  
19 assume much risk. We didn't want to find out  
20 at a later point that there was a habitat or  
21 an archeological site or something like that  
22 that would throw it off at the last minute.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We wanted to nail that site before we put it  
2 on point.

3 CHAIRMAN RAFTICAN: One other  
4 question. We started off and talked in terms  
5 of outlining an actual policy on Marine  
6 Spatial Planning, essentially, in a 90 day  
7 window and 180 if we throw in Ocean Policy  
8 along with that also.

9 And you folks were looking at 10  
10 years. What is a reasonable time line to take  
11 a look at this? I mean, you know, at what  
12 point do you -- you know, how long does it  
13 take to cover the bases that you need to  
14 cover? Is there any type of a guide on that  
15 or really what were you looking at?

16 MR. FUGATE: Well, one of the  
17 interesting things is that, and I heard Gary  
18 say this, too, time lines or deadlines are  
19 good.

20 CHAIRMAN RAFTICAN: Yes.

21 MR. FUGATE: I suppose they could  
22 be bad, but if we don't have deadlines --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN RAFTICAN: It ain't going  
2 to happen.

3                   MR. FUGATE: So we do need  
4 deadlines, I think. And really, you know, our  
5 coastal programs, I think, overall are  
6 considered fairly sophisticated.

7                   CHAIRMAN RAFTICAN: Yes.

8                   MR. FUGATE: You've got a program  
9 that isn't that sophisticated and just  
10 starting out they are going to have a much  
11 larger learning curve than a program that is  
12 sophisticated and moving very quickly.

13                   And so it is going go vary state-  
14 by-state as to what is the appropriate time  
15 line. At the federal level, I think most of  
16 the federal agencies are just getting into  
17 this and I know when we dealt with MMS, there  
18 was a complete change of mindset for them.  
19 They were pressing on oil and gas and where  
20 the oil and gas drilled, that's where it was.  
21 There was no movement.

22                   CHAIRMAN RAFTICAN: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FUGATE: There was no choice.  
2 That's where you had it. And with renewable  
3 energy, you can move. You can choose. And  
4 site selection becomes very important. So  
5 people said if you change the mindset for them  
6 and many of the federal agencies that we  
7 interact with are used to -- well, a main  
8 project that I can sit down and review that  
9 and tell you what you're going to need, an  
10 approachable planning perspective, that was a  
11 different way of looking at it.

12 And we would often engage in the  
13 cycle. We can't do this until we have a  
14 project before us. And we would say you're  
15 going to have a project. There is a question,  
16 whether you want to step out front and say  
17 where it should go and where it shouldn't go.

18 You want to react to -- I have been a  
19 regulator for 35 years. Alerting people to  
20 stupid projects saves me a hell of a lot of  
21 headache.

22 And I like to avoid headaches. So

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you getting out front and say where things  
2 should and shouldn't go saves me a lot of  
3 work.

4 MR. WIGGIN: Maybe in parallel  
5 would be the Coastal Zone Management programs.  
6 Three and four years for -- you know, if you  
7 look at what most of the states are dealing  
8 with, that Coastal Zone, it arguably was  
9 sufficient.

10 I mean, if you look at the European  
11 examples, none of them were done and they  
12 certainly weren't done in a year. They are  
13 multiple year efforts. The great thing about  
14 that one year deadline is that we'll have a  
15 plan after a year and a half -- but the beauty  
16 of it is we will have the advantage of having  
17 that structure in place.

18 We like to think of it as a  
19 framework. And then five years from now, we  
20 will have the actual comprehensive, multiple  
21 use EBM phase of the plan.

22 CHAIRMAN RAFTICAN: Yes, one other

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 question. You have got a very broad range of  
2 stakeholders, whether they are energy  
3 producers or whether they are regulators or  
4 fishermen or boaters or environmentally  
5 conscious people that aren't sure that things  
6 are -- who handled your communications? Were  
7 they successful? And what would you do to  
8 improve?

9 MR. WIGGIN: Communications with  
10 stakeholders?

11 CHAIRMAN RAFTICAN: Yes.

12 MR. WIGGIN: I'll answer for  
13 Massachusetts. Mass EEA did a lot of -- they  
14 came in to the stakeholder process and --

15 CHAIRMAN RAFTICAN: EEA?

16 MR. WIGGIN: Yes. Energy and  
17 Environmental Affairs. They plan. They did  
18 17 stakeholder meetings throughout the state  
19 in the western part of the state and then they  
20 did several other hearings. So we had the  
21 advantage from Mass Ocean Partnership. Their  
22 charge was also to do stakeholder engagement.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           So they paralleled that process and  
2 held their own series of stakeholder outreach  
3 and they had the resources to videotape  
4 everything, put it on the web, stream it on  
5 the web. It is still there today, if you want  
6 to look at any of the state's hearings, any of  
7 the Mass hearings, it's all there.

8           So that was a major investment on  
9 Mass Ocean Partnerships among other things.  
10 And again we were only working in a year's  
11 period of time, so very concentrated.

12           CHAIRMAN RAFTICAN: Did they get  
13 Legacy media to buy in on that global TV,  
14 radio, newspaper?

15           MR. WIGGIN: Newspaper and a couple  
16 of times on television. If it was an issue,  
17 television would pick it up, but generally  
18 not.

19           CHAIRMAN RAFTICAN: And how was the  
20 response afterwards from stake -- did you have  
21 everybody screaming that they didn't know  
22 about it? Was there generally that they had

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 an idea?

2 MR. WIGGIN: We didn't get that.

3 CHAIRMAN RAFTICAN: Okay.

4 MR. WIGGIN: So I think that the  
5 islands might have felt that way. As you saw,  
6 the renewable energy areas were around  
7 Martha's Vineyard. And the people in Martha's  
8 Vineyard toward the end of the project said  
9 that they didn't really realize that you were  
10 heading into --

11 CHAIRMAN RAFTICAN: That's my  
12 backyard.

13 MR. WIGGIN: Which was a little  
14 surprising to be honest with you, but fair.  
15 If they say they need to have sufficient  
16 opportunity, then who's to say they didn't?  
17 They have a representative on the Advisory  
18 Committee, Marie Seldon.

19 CHAIRMAN RAFTICAN: Yes.

20 MR. WIGGIN: But it gets to what  
21 you were saying.

22 CHAIRMAN RAFTICAN: Well, I'm just

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 curious. I know we go through this in  
2 California.

3 MR. WIGGIN: Yes.

4 MR. FUGATE: One of the things we  
5 were conscious of was the stakeholder process.  
6 Besides that, the important people there were  
7 very conscious about who chaired the  
8 stakeholder process. We chose somebody that  
9 wasn't part of our team, wasn't part of  
10 anybody's team actually, but was well-  
11 respected for understanding the issues.

12 And the main fear was that he was  
13 independent and not part of our team, so that  
14 people could approach him and feel that they  
15 could discuss an issue with him and then it  
16 would get heard and make sure to begin to --  
17 the meeting we had with the stakeholders and  
18 anybody that has a concern on anything and  
19 then it gets reported in the process.

20 So I think getting somebody in the  
21 chair position, so we can handle the crowd  
22 like that is key to the stakeholder. And they

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have to feel like that they are part of the  
2 process in making a difference.

3 CHAIRMAN RAFTICAN: Pam?

4 MR. WIGGIN: The funny thing about  
5 these plans was that at the beginning of the  
6 hearings, they weren't very well-attended, you  
7 know. We would go out to the community and  
8 have a public meeting. There wasn't anything  
9 that any decisions were being made.

10 So it was a little amorphous, I  
11 think, and some of the people came and, yes,  
12 you know, it all sounded fine. Sure, it's  
13 great. And but not until something begins to  
14 get to be put on paper, you know, zoned.  
15 That's the great way to get somebody's  
16 attention. And they were very careful about  
17 that, not mapping anything early in the  
18 process, because people zero in on that.

19 CHAIRMAN RAFTICAN: Yes, we've done  
20 it both ways. So it's actually for -- the  
21 seventh largest economy of the world -- have  
22 got a process moving forward. Not only are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there steady yells and screams, it's pretty  
2 open and notorious. Wouldn't you say, Ken?

3 MR. RIZZARDI: Absolutely.

4 CHAIRMAN RAFTICAN: So, Pam, you've  
5 got a question?

6 MS. DANA: Just briefly. Having  
7 working with all the stakeholders as much as  
8 you felt you could, were the different  
9 communities or sectors or stakeholders active  
10 in getting the process off the ground? If so,  
11 how did you deal with that?

12 MR. FUGATE: I can tell you that we  
13 have plans due August next year, so we're  
14 trying to ensure that -- what we are doing is  
15 we're rolling out each individual chapter by  
16 itself and giving everybody a chance to  
17 comment chapter-by chapter, so that it breaks  
18 it up rather than -- because our plan is going  
19 to be pages long. And that would just be a  
20 daunting volume of material to try to absorb  
21 and deal with. We bring it all together and  
22 there will be another opportunity.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   So far we're not experiencing  
2 problems.

3                   CHAIRMAN RAFTICAN: Randy? Let's  
4 get one more question here.

5                   MR. RANDY FISHER: Yes.

6                   CHAIRMAN RAFTICAN: And then we'll  
7 see if we can move forward.

8                   MR. RANDY FISHER: I'm assuming  
9 that when the administration puts out  
10 something, they will say that, "We're going to  
11 do Ocean Planning." That's my guess. And  
12 then they are going to probably say, from what  
13 I have seen and my guess is that NOAA will be  
14 the lead Agency. Is that true?

15                   MS. McCARTY: At the Senate hearing  
16 that I went to, I don't know whether you  
17 missed that, but they talked about that.  
18 Senators asked every single person that was  
19 sitting at the witness table who should be in  
20 charge of this. Yes, yes, so the Congress is  
21 extremely interested in who should and who  
22 shouldn't lead it.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And it became really clear that it  
2 would either be CEQ or NOAA, it seemed to me,  
3 that was my conclusion from the answers that  
4 were given.

5                   MS. LOVETT:     What does CEQ stand  
6 for?

7                   MS.     McCARTY:            Council     on  
8 Environmental Quality.

9                   CHAIRMAN RAFTICAN:        Council     on  
10 Environmental Quality.

11                   MS. McCARTY:     That's a White House  
12 Agency.

13                   MR.     RANDY    FISHER:            Now,     the  
14 question they are asking --

15                   MS. McCARTY:     They are chairing  
16 that.

17                   MR. RANDY FISHER:    -- assuming this  
18 does happen, would that have been an advantage  
19 to you folks or no?    Is there anything the  
20 Feds could do that would be helpful to you?  
21 Is a pot of money a better deal or no?

22                   MR. FUGATE:     Money always helps.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 But, as I said, getting a solid commitment  
2 from them to participate in the process,  
3 conversely, I don't see how a federal entity  
4 could control that without having the states  
5 in.

6 CHAIRMAN RAFTICAN: Yes.

7 MR. FUGATE: So there has got to be  
8 a partnership of both and I do mean a true  
9 partnership because it's all our effort. So  
10 we are -- everything passed and all the stuff  
11 you've designs and everything, they have a say  
12 in everything we do as a partner. I think  
13 that's the way it has got to go.

14 MS. McCARTY: 15 minutes.

15 CHAIRMAN RAFTICAN: Yes. Okay. If  
16 you've got one more question? We have got a  
17 tremendous amount of information out on the  
18 table. I would like to go back over and look  
19 at what we submitted earlier this year and see  
20 -- you know, we've still got a couple of weeks  
21 that we can get a document forward and change  
22 that, but we're going to have to do it pretty

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 quickly.

2 So, Randy, go ahead.

3 MR. RANDY FISHER: Between the two  
4 of you, is there an amount of money you've  
5 spent similar for the process? Do you know?  
6 I mean, if you added up all the bills, are you  
7 about at the same spot?

8 MR. FUGATE: Well, we're looking at  
9 that, because we went into an extensive data  
10 gathering and that's where the money was. So  
11 it's -- have they done the same meeting,  
12 gathering exercise for the area that they are  
13 engaged in? The numbers are probably -- would  
14 have been roughly --

15 MR. WIGGIN: And I don't know that  
16 number from the state. I have heard Deerin  
17 answer that question before and I think he  
18 said something that is under a million dollars  
19 of state effort. There was no money thrown at  
20 this. It was a reallocation of resources to  
21 this effort. And I guess we would have to pay  
22 that around a little under a million.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   And then the Mass Ocean  
2 Partnership, I have heard them report up until  
3 this point they have probably spent a million  
4 and a half. But they spent an extensive  
5 amount of money on outreach kinds of  
6 activities and things that have to do with  
7 bringing the experience message uses out to  
8 the country. So some of that money has to do  
9 with objectives.

10                   CHAIRMAN RAFTICAN: Okay.

11                   MR. WIGGIN: And Grover is right,  
12 it's data gathering.

13                   MR. RANDY FISHER: Yes.

14                   CHAIRMAN RAFTICAN: Okay.

15                   MR. FUGATE: Remember when I  
16 started us out, I said we had a Zoning Plan  
17 for our 3 mile wind. We had the 3 miles  
18 covered. Once you get beyond 3 miles, states  
19 do tend to gather some data, area, the data  
20 sets actually drop off and so you are in to a  
21 fairly extensive data gathering/data  
22 generation effort. We all know it costs

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 money.

2 CHAIRMAN RAFTICAN: I again would  
3 like to thank both of you for a tremendous  
4 amount of information and a great deal of help  
5 and background for, you know, some of the  
6 things that we are facing.

7 On that note, I would like to read  
8 a portion for, you know, the Committee on what  
9 we submitted, I guess it was the end of August  
10 this year. And I think a lot of it fits in  
11 with where you are at, but let's see. Let's  
12 go through this and see if there is something  
13 that we want to change and make a further  
14 recommendation to the MAFAC to come forward  
15 with.

16 And I'm going to pick it up in the  
17 middle, but to carry out the policy and they  
18 are talking about the Ocean Policy, A  
19 framework for Ocean Policy coordination and  
20 its implementation should promote  
21 collaboration in partnerships between the  
22 Federal Government, States, Tribes, Regional

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Fishery Management Councils and Regional  
2 Stakeholders be transparent, incorporate  
3 science-based decision making processes,  
4 integrate accountability at all stages and  
5 have adequate dedicated and secure resources  
6 in funding to be effective.

7 This framework should:

8 First bullet. Build upon the  
9 strength of successful existing entities for  
10 regional collaborations that work on Ocean  
11 Policy components, duplication of existing  
12 efforts should be avoided.

13 Next bullet. Incorporate a timely  
14 transition or migration of efforts from  
15 existing strategies where necessary.

16 Next bullet. Include Marine  
17 Spatial Planning as defined below as a tool  
18 for analysis of options to help evaluate and  
19 balance the needs of multiple ocean uses and  
20 to support sound Ocean Policy decision making.

21 Marine Spatial Planning is a  
22 comprehensive ecosystem-based process through

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 which compatible uses are objectively and  
2 transparently allocated to appropriate ocean  
3 areas to sustain critical ecological, economic  
4 and cultural services for future generations.

5 Next bullet. Promote effectiveness  
6 and incorporate binding coordination  
7 requirements between parties where possible.  
8 Include dispute resolution mechanisms and have  
9 an identified ultimate arbiter. It should not  
10 be dependant upon superficial or optional  
11 requirements, but should have a means to  
12 promptly resolve jurisdictional conflicts  
13 among agencies or regional governing bodies.

14 And the final bullet. In addition  
15 to an accountability and review process,  
16 incorporate principles of adaptive management  
17 that encourage flexibility and continuous  
18 improvement.

19 MR. WIGGIN: Sounds Perfect.

20 CHAIRMAN RAFTICAN: Damn.

21 MR. WIGGIN: I mean, based on the  
22 adaptive management piece.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. FUGATE: I think we talked  
2 about.

3 CHAIRMAN RAFTICAN: Okay. This is  
4 what we have put together, again, at the May  
5 meeting and then a number of conference calls  
6 through August, but I'll let this up to you  
7 guys to say hey, look, you know, don't be shy,  
8 you know, flies on the player or is there  
9 another direction to go, because I absolutely  
10 believe practical experience really adds a  
11 tremendous amount to what we can do.

12 Questions?

13 MR. FUGATE: I think if you listen  
14 to our presentations, you'll find that this  
15 includes most of what was said.

16 CHAIRMAN RAFTICAN: Heather?

17 MS. McCARTY: Can you read that  
18 second bullet again?

19 CHAIRMAN RAFTICAN: Bullet 2.  
20 "Incorporate a timely transition or migration  
21 of efforts from existing strategies where  
22 necessary."

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. McCARTY: What does that mean?

2 CHAIRMAN RAFTICAN: Well, I think  
3 if you are changing from one governing body to  
4 another, if you are -- you know, there may be  
5 differences in management, I would think. I  
6 think you may have state overlaps in certain  
7 areas. You may have federal --

8 MS. McCARTY: Is that what it is  
9 referring to, state regional versus federal or  
10 does it mean uses or what does it mean? I  
11 think that one could be expanded to be  
12 clearer. I guess I'm not objecting to it, I  
13 just don't know what it means.

14 CHAIRMAN RAFTICAN: Okay. Yes.

15 MS. McCARTY: I don't know what it  
16 means. I just --

17 CHAIRMAN RAFTICAN: Hang on.

18 MS. DOERR: I have a question of  
19 you.

20 CHAIRMAN RAFTICAN: Patty?

21 MS. DOERR: Can you just remind me,  
22 is that for Marine Spatial Planning or Ocean

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 governance or both?

2 CHAIRMAN RAFTICAN: This is the  
3 Ocean Policy into Marine Spatial Planning.  
4 But you can't really kind of pull Marine  
5 Spatial Planning directly out of that, but  
6 this is the broader view of it.

7 MS. DOERR: Okay.

8 MS. LOVETT: Essentially, it is  
9 making a framework for Ocean Policy  
10 coordination and implementation and the task  
11 force was tasked with, as part of that  
12 implementation, Marine Spatial Planning should  
13 be coordinated and discussed on how to do the  
14 Marine Spatial Planning.

15 CHAIRMAN RAFTICAN: Heather, back  
16 to your question.

17 "Incorporate a timely transition or  
18 migration of efforts from existing strategies  
19 where necessary." How would you change that?

20 MS. McCARTY: I don't know if I  
21 would change it or not, because I wasn't  
22 actually there when that was developed.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN RAFTICAN: Okay.

2 MS. McCARTY: So I just don't know  
3 what it means. I really don't. So I just  
4 wondered what you were thinking when you put  
5 that together?

6 What it means to me is what it  
7 sounds like is that, for example, if you were  
8 paranoid, you could say, you know, it sounds  
9 like some other entity wants to take over  
10 management of some particular resource, some  
11 other entity than currently manages it, for  
12 example. And then that would make some people  
13 paranoid as to what is going to happen to  
14 them.

15 That's all. It just is a little  
16 bit of an alarm bell.

17 CHAIRMAN RAFTICAN: Okay. I  
18 wouldn't sit here and try to, you know, go to  
19 the wall and defend this. I think what it was  
20 saying was hey, you know, if you've got a  
21 conflict, resolve it. You know, if you have  
22 got -- you know, have put together a timely

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 transition and, you know, handle it.

2 MS. LOVETT: I think the idea was  
3 is if there was some legislation that said  
4 there shall be Regional Ocean Councils, but in  
5 some regions they have Governor Agreements and  
6 they don't have a, you know, Ocean Council, if  
7 they are not constructed currently in the same  
8 fashion and there was some agreement to try to  
9 have some framework on how they should be  
10 constructed and one might have to morph a  
11 little bit to meet that ideal, if there was  
12 such an ideal, but that that effort was  
13 seamless.

14 It's not getting into the nitty-  
15 gritty of the actual planning. This should be  
16 managed by A or managed by B. It was the  
17 framework of how to do that regional planning.  
18 That's how I recall.

19 MS. McCARTY: One of the reasons I  
20 bring it up is because there exists, as you  
21 know, that paranoia that some people have in  
22 the commercial fishing community, that those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Regional Councils that have, you know, for  
2 many years managed the fisheries will be  
3 replaced or subverted in some way by a  
4 Regional Ocean Council construct.

5 And I don't know whether that is  
6 shared in the recreations meeting, but it's  
7 certainly big.

8 MS. LOVETT: Yes.

9 MS. McCARTY: I think that's true.

10 MS. DANA: I think that's one of  
11 the things that once they do --

12 MS. McCARTY: Right.

13 CHAIRMAN RAFTICAN: I hear what you  
14 are saying. And I hear -- and I think all of  
15 us share the angst behind it. I'll go back to  
16 the first -- and again this is I'm picking up  
17 in the middle, I think it is page 2.

18 "To carry out the policy of  
19 framework for Ocean Policy coordination,  
20 implementation should promote collaboration in  
21 partnerships between the Federal Government,  
22 States, Tribes, Regional Fishery Management

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Councils and Regional Stakeholders."

2 It is pretty up front on here that  
3 they expect both. And you know, that this  
4 isn't subverting the Councils. It is managing  
5 in concert with them.

6 MS. McCARTY: I think this goes to  
7 the very height of people's fears in this  
8 arena. And I think the way they did it in  
9 Massachusetts is one way to calm that fear.  
10 Whether it should be done that way or not is  
11 another issue.

12 From the philosophical standpoint,  
13 if we want ecosystem-based management, I think  
14 you said at the beginning of your discussion  
15 here that perhaps you have everything managed  
16 by one big entity, so that the coordination of  
17 fisheries management is there.

18 But I don't think very soon that  
19 people will want to give up their current  
20 system of fisheries management in this  
21 country. And so I believe that in order to  
22 make this process a whole lot easier, that we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 ought to recognize that, whether it be by  
2 statute.

3 I'm looking into the future and I'm  
4 seeing that. I'm seeing Senators and Congress  
5 people saying okay, you guys want to talk  
6 about what your plans are? We are going to  
7 protect this, this and this, because that's  
8 what my constituents want.

9 That's what I see. I don't know  
10 whether we can do that in the policy itself to  
11 calm those fears or whether it is just going  
12 to end up being done by Congress ultimately,  
13 if there ever is to be some sort of  
14 coordinated plan.

15 That's just --

16 MS. DANA: I think your point is  
17 really well-taken of a common fear.

18 MS. McCARTY: Yes.

19 MS. DANA: And them having a system  
20 of communication, so that words that would be  
21 explosive, would just be facts.

22 MS. McCARTY: Yes. I think they

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 did, but I think the real controversy is some  
2 people believe that that is what they are  
3 going to do. Some people believe, that is the  
4 ecosystem lanes not fishery lanes. And that's  
5 a very legitimate discussion, very legitimate.

6 But I'm saying I don't think people that I  
7 talked to about this are ready for that kind  
8 of change.

9 MR. FUGATE: We have heard problems  
10 from some of the environmental communities.  
11 They have asked well, do you see this in the  
12 face of the managed fisheries? They're not  
13 trying to manage the fisheries. We need an  
14 entity that can manage the fisheries.

15 CHAIRMAN RAFTICAN: Yes.

16 MR. FUGATE: But what we are trying  
17 to do is bring the fisheries to the process,  
18 because there are big excuses out there. And  
19 we need to -- and anybody who uses this, they  
20 would have to be at the table and help us  
21 figure this out, because it is putting  
22 something out there in their environment that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is probably in a place that they used to use.

2 They need to have a place at the  
3 table where they have people talking to get  
4 that concept.

5 MR. WIGGIN: I think specifically  
6 to your point, I mean, I don't think we have  
7 to be -- we have to suggest that fisheries --  
8 that everything comes under a single  
9 jurisdiction.

10 MR. FUGATE: Yes.

11 MR. WIGGIN: But that they would be  
12 subject to the same plan.

13 MR. FUGATE: Sure.

14 MR. WIGGIN: So if the plan's goal  
15 was EBM, a lot of people feel that the way  
16 fishing practices are done today, if you're  
17 concerned with the environment, part of that  
18 ecology, then you need to be able to, in some  
19 cases, manage that differently. And that  
20 opportunity is here.

21 MS. McCARTY: Right.

22 MR. WIGGIN: That's all it is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 saying. So at some point in time, if we got  
2 to that point, we would have to be able to  
3 give and take on both sides.

4 CHAIRMAN RAFTICAN: I think one of  
5 the other things, too, is well people wouldn't  
6 jump in and try to manage fisheries, you know.

7 Patty and then Erika and then --

8 MS. DOERR: I mean, to build off  
9 your -- you, Heather, we may not be able to  
10 effect legislation, but we, as a Committee,  
11 can make that sort of recommendation to the  
12 White House to include it in that framework.

13 MS. McCARTY: That, to me, is  
14 exactly what we should be doing. But that's  
15 just my opinion.

16 MS. DOERR: I agree with you.

17 CHAIRMAN RAFTICAN: Erika? And I  
18 don't know if this does it because of the  
19 temporal nature, but one of the things that  
20 you said earlier is in-water zoning overrides  
21 upland zone. And I wonder if that addresses  
22 it or not or if that kind of --

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. LOVETT: It's a different  
2 issue. But I think it's a critical one that  
3 you all got, you all were very smart to do up  
4 front.

5 CHAIRMAN RAFTICAN: Yes. Heather,  
6 do you have a statement that we should add to  
7 another bullet?

8 MS. McCARTY: Well, let me just  
9 tell you a little story and then you guys  
10 decide if we need some sort of statement.

11 At the Pacific Council, a gentleman  
12 who was part of the discussion with CEQ on  
13 this issue, he is a fisherman from Oregon. I  
14 think his name is Frank Brown or something  
15 like that. I can't remember his name.

16 CHAIRMAN RAFTICAN: Ralph Brown.

17 MS. McCARTY: Ralph Brown.

18 CHAIRMAN RAFTICAN: Okay.

19 MS. McCARTY: He met along with  
20 several of the other commercial fishing  
21 representatives with CEQ, I believe.

22 CHAIRMAN RAFTICAN: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. McCARTY: And he came back and  
2 made a report to the Pacific Council and said  
3 if current uses aren't protected, we are going  
4 to miss the boat, so to speak. We are going  
5 to be SOL. So that was his message to the  
6 entire Pacific Council.

7 CHAIRMAN RAFTICAN: All right.

8 MS. McCARTY: And that, to me,  
9 means that there is still this big fear that  
10 current uses are not going to be adequately  
11 protected. And so I don't know how to  
12 encompass that in the statement, but --

13 CHAIRMAN RAFTICAN: Well, let's --  
14 are you -- Patty, if you are interested,  
15 Heather if you are interested in the  
16 statement, we will get it back to the rest of  
17 the Committee before the general meeting  
18 tomorrow and then run it in front of them.

19 If that works for you. Are you two  
20 both in on that? Okay.

21 MS. McCARTY: Sure.

22 CHAIRMAN RAFTICAN: Talk to you

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 later on. Erika, I think?

2 MS. FELLER: Sure. Well, I guess,  
3 I'm just making the argument that management  
4 responsibilities protecting different and  
5 protecting existing uses, in my mind, are two  
6 different things.

7 I mean, if you come up with an  
8 ecosystem approach to management, you may  
9 find, you know, a better, smarter way. I  
10 mean, to me, you know, I read this slide and,  
11 you know, this looks like something that was  
12 sort of word-smithed by a bunch of people who  
13 didn't really fully agree on everything that  
14 they were talking about in putting the  
15 statement together.

16 CHAIRMAN RAFTICAN: Yes.

17 MS. FELLER: But you know, it seems  
18 to me like, you know, focusing on what the  
19 effect of, you know, this coordination of this  
20 transition that you want to see might be a  
21 better way to do this. I mean, we would like  
22 to see existing uses recognized, incorporated,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you know, maybe you'll even go so far as to  
2 say this isn't a recommendation on, you know,  
3 existing authorities, but you want to see  
4 coordination.

5 You want to see better information  
6 to all management. You could also see this  
7 potentially being a conflict not just with  
8 Fishery Management Councils, but with a range  
9 of other resource management responsibilities  
10 in --

11 CHAIRMAN RAFTICAN: Yes.

12 MS. FELLER: -- the coastal areas.

13 CHAIRMAN RAFTICAN: Sure.

14 MS. FELLER: You are really, I  
15 think, talking about through this is trying to  
16 find a way to sort of provide better  
17 information, more clarity to protect, you  
18 know, and better inform a lot of different  
19 decision making, like, you know, I was just  
20 really struck by what you were saying, you  
21 know.

22 And we have seen this with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 fishermen that we work with. You know, if you  
2 look at it a certain way, Marine Spatial  
3 Planning can actually protect you from losing  
4 access to your fishing ground. That's the  
5 point.

6 The point is not protecting the  
7 Fishery Management Councils prerogatives. I  
8 mean, you know, they are well-established.  
9 The point is providing them with the  
10 information and their constituents with the  
11 information to, you know, sort of make sure  
12 that they are adequately represented within,  
13 you know, this broader management arena.

14 CHAIRMAN RAFTICAN: Well, are you  
15 the third person in on the go around? Okay.

16 MS. McCARTY: Or creating a process  
17 that guarantees that. It's really a process  
18 really, don't you think?

19 MS. FELLER: Yes. That's exactly  
20 right. That's a so much shorter way of saying  
21 it.

22 CHAIRMAN RAFTICAN: Okay.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. FELLER: Thank you.

2 CHAIRMAN RAFTICAN: Could you meet  
3 with us afterwards to put together a bullet  
4 and put this in here, so that we can come  
5 forward with it back to the Committee before  
6 the full MAFAC meets tomorrow? Dinner time or  
7 something to get together? Okay.

8 Is everybody else comfortable with  
9 that? We will craft one more bullet item that  
10 goes into the existing framework that we sent  
11 earlier this year and then if I run it by --  
12 yes?

13 MS. FELLER: Would it replace this  
14 bullet?

15 CHAIRMAN RAFTICAN: Is there enough  
16 angst over this bullet that we would pull that  
17 out?

18 MS. McCARTY: I don't want to spark  
19 anybody's turn.

20 CHAIRMAN RAFTICAN: I don't think  
21 anybody is owning this one to any extent.

22 MS. LOVETT: It has been sent

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1       though. I mean, just understand this --

2                   CHAIRMAN RAFTICAN: Yes.

3                   MS. McCARTY: Oh, yes, this is the  
4       old one.

5                   MS. LOVETT: This has been sent. I  
6       think --

7                   CHAIRMAN RAFTICAN: Yes.

8                   MS. LOVETT: -- we might want to  
9       clarify or expand what was previously  
10      presented.

11                   CHAIRMAN RAFTICAN: Yes.

12                   MS. LOVETT: But we can't retract  
13      what has been sent.

14                   MS. McCARTY: Okay.

15                   MS. LOVETT: I wouldn't -- I don't  
16      think we want to do that.

17                   CHAIRMAN RAFTICAN: That's true.

18                   MS. LOVETT: Per se. And there is  
19      a lot of great stuff in here, even if that one  
20      particular thing is not quite on target --

21                   CHAIRMAN RAFTICAN: Yes.

22                   MS. LOVETT: -- at the moment.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1                   CHAIRMAN RAFTICAN:     Is everybody  
2 else comfortable with that?

3                   MS. LOVETT:     Were there any other  
4 issues or topics that should be part of  
5 whatever additional statements are made?

6                   CHAIRMAN RAFTICAN:     There was a  
7 very interesting discussion on budget in  
8 Heather's Committee.     I think if we go  
9 forward, how we implement this thing -- you  
10 know, I heard someone say we got this off the  
11 ground with a million dollars and a million  
12 and a half.

13                   And that doesn't go very far on a  
14 national basis.     And I think as we come back  
15 for our next meeting, let's be prepared to  
16 make recommendations on how to better budget  
17 things like this, so that we actually -- we  
18 get a Comprehensive Plan that comes out that  
19 is worthwhile.

20                   But that's just an aside.     Anything  
21 else?     See you on the bus.     Thank you very  
22 much really.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

(Whereupon, the Subcommittee  
meeting was concluded at 3:03 p.m.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701