

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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THE HIGHLY MIGRATORY SPECIES
MANAGEMENT DIVISION OF THE OFFICE OF
SUSTAINABLE FISHERIES

+ + + + +

MEETING

+ + + + +

WEDNESDAY
MARCH 14, 2007

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HMS AP MEMBERS PRESENT:

BEVERLY SAULS - FFWCC, Fish and Wildlife
Research Institute

CAROLYN BELCHER - Georgia Coastal Resources
Division

DAVID NIELAND (Proxy for John Gold) -
Louisiana Sea Grant College Program

DEWEY HEMILRIGHT - F/V Tar Baby

DON NEHLS - Lindgren-Pitman, Inc.

DR. ANDRE BOUSTANY - Nicholas School of
Environment & Earth Sciences

DR. JOHN GRAVES - Virginia Institute of Marine
Science

DR. MICHAEL BUHL - Deputy Director, NC
Division of Marine Fisheries

DR. ROBERT HUETER - Center for Shark Research

EUGENIO PINEIRO-SOLER - Chairman, Caribbean
Fish, Management Council

GAIL JOHNSON - Pocahontas, Inc.

JACK DEVNEW (Proxy for Glenn Delaney) - Marine
Division Maury, Donnelly & Parr, Inc.

JAMES DONOFRIO - Recreational Fishing Alliance

JASON SCHRATWIESER - International Game Fish
Association

JOSH LOEFER - SC Dept. of Natural Resources

KEN HINMAN - National Coalition for Marine
Conservation

PAT AUGUSTINE - Mid-Atlantic Fishery
Management Council

PUTNAM MCLEAN (Proxy for Peter Weiss) - East
Coast Tuna Association

RICHARD B. STONE - National Marine
Manufacturer's Association

RICHARD RUAIS - East Coast Tuna Association

RICK WEBER - South Jersey Marina

RITA MERRITT - South Atlantic Fishery
Management Council

ROM WHITAKER - Hatteras Harbor Charter Boats

RONALD CODDINGTON - Southeast Swordfish Club

RUSSELL HUDSON - Directed Shark Fisheries

RUSSELL NELSON - Nelson Resources Consulting

SHANA MILLER - Tag a Giant Foundation

SHAWN DICK (Proxy for Terri Beideman) -
Aquatic Release Conservation (ARC)

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HMS AP MEMBERS PRESENT: (continued)

SKIP SMITH (Proxy for Ellen Peel) -
 Charterboat Captain
 SONJA FORDHAM - The Ocean Conservancy
 THOMAS DePERSIA - President, Stellwagen Bank
 Charter Boat Association
 VINCE MONTELLA
 WILLIAM ETHERIDGE - NC Fisheries Association
 WILLIAM GERENCER - Marine Trade Center

ALSO PRESENT:

CHRIS VONDERWEIDT - Atlantic States Marine
 Fisheries Commission
 TIM PALMER - Buoy Gear fisherman
 PHIL KOZAK - Nationl Fishing Association

NMFS PERSONNEL:

BILL HOGARTH
 SAM RAUCH
 CARRIE SELBERG
 MARGO SCHULZE-HAUGEN
 KARYL BREWSTER-GEISZ
 MICHAEL CLARK
 JOE DESFOSSE
 HEATHER HALTER
 LeANN SOUTHWARD HOGAN
 SARI KIRALY
 CHRIS RILLING
 RONALD RINALDO
 GEORGE SILVA
 JERON STANNARD
 CARY WONG
 JACKIE WILSON
 MARK MURRAY-BROWN
 BRAD McHALE
 SARAH McLAUGHLIN
 RUSSELL DUNN
 RANDY BLANKINSHIP
 GREG FAIRCLOUGH
 RICK PEARSON
 FRANK SPRTEL
 CONSTANCE SATHRE
 STEPHANIE BOLDEN

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C O N T E N T S

Agenda Items:	Page
Shark Assessment Predraft presented by Michael Clark	5
Q&A Session	27
Predraft Jackie Wilson	57
Q&A Session	80
Unnamed person presenting breakout session report [in progress on tape]	111
Breakout session report	123
Breakout session report	130
Q&A Session	136
Dr. Hogarth Q&A	149
Chris Rilling Essential fish habitat	168
Q&A Session	190
Sarah McLaughlin N.E. Region presentation	232
Q&A Session	242

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Public Comment	
Phil Kozak, NFA	271
White Marlin	
status review	
Stephanie Bolden	274
Q&A Session	288
Adjournment	302

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P R O C E E D I N G S

1
2 MS. SCHULZE-HAUGEN: Thank you for
3 coming bright and early. We're going to start
4 this morning with a presentation on the
5 predraft. I think we have an option for you.

6 We have two separate presentations that go
7 through different aspects of the predraft, and
8 we can go through both of them and then have
9 kind a separate breakouts on each presentation
10 topic, or we can have one, have the breakout,
11 come back after break and have the second
12 presentation, and then have the second
13 breakout on that.

14 It's kind of whether you want it
15 all at once, or you want to take it off in
16 chunks. So any particular feedback?

17 All right. Well, take it away,
18 Mike.

19 MR. CLARK: All right. Thank you
20 very much. My name is Michael Clark. I work
21 in Silver Spring, predominantly on shark
22 issues, with HMS. I just wanted to provide an

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1 overview presentation, some of the highlights
2 of the predraft to amendment two of the
3 consolidated HMS/FMP. Most of you should have
4 received this about a week ago. There are
5 bound hard copies in the other room, if you'd
6 like to take a look at those, cause the
7 presentation basically follows the document
8 pretty closely.

9 So the reason that we're initiating
10 this amendment is to implement Atlantic shark
11 management measures, because of the fact that
12 there has been some recent stock assessments.

13 Three assessments, in particular. Starting
14 with the large coastal assessment that was
15 conducted following the Southeast data and
16 review process, beginning in 2005, ending in
17 2006. This assessed the large coastal shark
18 complex, sandbar sharks and blacktip sharks.

19 A separate assessment looked at
20 dusky sharks and was conducted by the
21 Southeast Fisheries Science Center, Panama
22 City Lab. This was not conducted in the SEDAR

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1 format, cause it started before SEDAR existed.

2 A porbeagle assessment was conducted by the
3 Canadians, completed in 2005, and our science
4 center has adopted this as appropriate for
5 U.S. management measures, and it is the best
6 available data for this species.

7 So just to kind of go through the
8 results of the assessments real quickly.

9 The large coastal shark complex,
10 for those of you that aren't familiar with the
11 CEDAR process, it's a three workshop process.

12 There's a data workshop where the catch data
13 is analyzed and evaluated to see if it's
14 appropriate; an assessment workshop where the
15 models are actually run; and then a review
16 workshop where the models are reviewed by
17 outside reviewers. These outside reviewers,
18 with regards to the large coastal complex,
19 felt that the methods used were inappropriate
20 to assess the complex because of the different
21 life histories of the species that are within
22 the complex, and the different intrinsic rates

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1 of increase, and different CPUE in the
2 different regions for the entire complex.

3 So the large coastal complex,
4 before this assessment, was overfished with
5 overfishing occurring. The status has been
6 changed to unknown.

7 For sandbar sharks, the assessment
8 found that overfishing is occurring and
9 sandbar sharks are overfished. They also
10 recommended a total allowable catch that would
11 result in a 70 percent probability of
12 rebuilding within 70 years, of 220 metric
13 tons, wet weight, per year.

14 Just to give you some context of
15 what 220 metric tons, wet weight, is in
16 relation to what the current landings are in
17 the fishery. First of all, it's about 160
18 metric tons, dressed weight, and average
19 landings over the past three years for
20 sandbars have been just under 700 metric tons.

21 Sandbars comprise about 70 percent
22 of the landings in the fishery and obviously,

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1 the fins of the largest sandbars are the most
2 valuable and the economic engine behind the
3 fishery.

4 Gulf blacktips were assessed as two
5 separate populations, separated by regions,
6 the Gulf of Mexico and Atlantic.

7 The Gulf of Mexico blacktip shark
8 stock is healthy, not overfished, overfishing
9 is not occurring. However, in the Atlantic,
10 the assessment was unable to provide estimates
11 of stock status or reliable population
12 projections. So in the Atlantic, blacktips,
13 the status is unknown. The assessment further
14 recommended that current catch levels should
15 not change.

16 Dusky sharks, which for those of
17 you that don't know, are a prohibited species,
18 have been since 2000, are overfished, with
19 overfishing occurring, and the assessment
20 recommended a rebuilding timeframe of 100 to
21 400 years.

22 Porbeagle sharks, again the

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1 assessment that was completed by the Canadians
2 but endorsed by our science center, were
3 overfished but overfishing was not occurring,
4 and they recommended a timeframe of
5 appropriately 100 years to rebuild.

6 So essentially as a result of these
7 assessments, we are initiating this FMP per
8 national standard one of the Magnuson Act to
9 rebuild overfished stocks and prevent
10 overfishing where it is occurring, as I
11 mentioned before, sandbars and dusky
12 overfished, with overfishing occurring,
13 porbeagle sharks are overfished.

14 For those of you that have been
15 involved with the AP for some time would
16 remember that we also implemented measures in
17 the consolidated HMS/FMP to address
18 overfishing of finetooth sharks. They were
19 not overfished but overfishing is occurring,
20 based on the 2002 assessment.

21 We have implemented a plan to
22 collect more data and more information on

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1 these stocks, and that the small coastal shark
2 assessment is currently going on. There was a
3 data workshop in February and this additional
4 data is being used in the assessment. We will
5 wait until the results of that assessment,
6 which should be completed in 2007. The model
7 workshop, the second part of the process, will
8 take place in May. When those results are
9 available, we will implement additional
10 measures, if necessary, for finetooth and
11 other small coastal sharks, as necessary.

12 So just to give you a quick
13 overview of the timeline. We conducted
14 scoping, which led to the predraft in January
15 of 2007, seven scoping meetings, they were
16 combined with the swordfish revitalization
17 proposed rule public meetings, currently at
18 the predraft stage. We'd like your comments
19 on this document and the alternatives that we
20 have described thus far, by March 31st, this
21 from the predraft, and we will complete the
22 draft environmental impact statement, which

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1 is, you know, the full analysis of the
2 measures that we're considering, which is also
3 accompanied by a proposed rule in summer of
4 2007, a 60 day comment period, consultation
5 with the councils, public hearings, etcetera.

6 And then the final EIS would come
7 out late fall, 2007, followed by the final
8 rule, which would then be effective 30 days
9 after publication.

10 So, again, based on the comments
11 that we've received on the Notice of Intent to
12 publish an amendment to the fishery management
13 plan, we've developed a predraft that
14 essentially just outlines the management
15 measures that we are considering. This is
16 certainly not a comprehensive list and we
17 definitely look forward to getting your
18 feedback on the alternatives that we have thus
19 far.

20 Again, if you could please provide
21 us your comments, of course we'll be
22 collecting them today, but any additional

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1 comments by March 31st.

2 So just to give you a quick
3 outline, we broke the predraft down into four
4 themes. There's EFER [ph] controls, fisheries
5 recharacterization, time area closures and
6 monitoring and compliance.

7 As Margo and Paul mentioned,
8 there's two presentations. This presentation
9 that I'll be presenting will cover the first
10 two themes, and then Jackie will cover the
11 second two, all at once, or with a break,
12 depending on what the consensus feels is
13 necessary.

14 Again, this presentation will
15 follow the hard copies of the predraft and so,
16 you know, if you'd like to follow along, that
17 would probably be to your benefit.

18 During the breakout sessions, if we
19 have one or two, we would I guess most
20 importantly like to focus your feedback on the
21 range of alternatives that we have presented,
22 whether or not there should be additional

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1 alternatives that we have not considered at
2 this stage, and also get your feedback on
3 whether or not there might be certain
4 alternatives that we should not analyze or go
5 forward with.

6 And also to get a better idea of
7 what some of the impacts, that we might not be
8 addressing in this current document. Again,
9 this isn't a chapter four, for those of you
10 that are familiar with our FMPs. This isn't a
11 full-blown analysis at this juncture. It's
12 simply a qualitative description of some of
13 the potential economic, social and ecological
14 impacts that might be a part of the
15 alternatives that we have proposed.

16 So jumping right into the first
17 theme, which is effort control alternatives,
18 starting with, first of all, the quotas and
19 species complexes, currently, there are four
20 species complexes--large coastals, small
21 coastals, pelagic sharks and prohibited
22 species.

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1 The large coastal commercial quota
2 is 1,017 metric tons, dressed weight, per
3 year, for the entire complex, and because of
4 the interrelated nature of these alternatives,
5 we decided to group these into sort of a
6 subtheme, looking at both.

7 Of course for all of these
8 subthemes we have, you know, the status quo,
9 which would be maintain existing quotas and
10 species complexes.

11 For sandbar sharks, an alternative
12 might be to, alternative two would be to break
13 sandbar sharks out of the large coastal shark
14 complex, create a sandbar specific quota,
15 based on the recommended quota levels from the
16 assessment, roughly 160 metric tons, dressed
17 weight, per year, and simply close this when
18 the--close that fishery down when that quota
19 is achieved.

20 Another alternative would be to
21 place sandbars on the prohibited species list
22 and essentially establish a commercial quota

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1 of zero. Obviously, there would be no
2 landings permitted in the recreational fishery
3 either, if it was a prohibited species.

4 Similarly for blacktips, we could
5 pull the blacktip shark quota out, remove that
6 from the large coastal shark complex, set
7 quotas based on historical landings. Again,
8 as the assessment indicated, it was assessed,
9 there's two different populations, the Gulf of
10 Mexico and the Atlantic, and if this
11 alternative were to be chosen, that
12 maintaining the current regions might be a
13 benefit because then the landings could be
14 adjusted based on or contingent upon the
15 different status of blacktips in the Gulf and
16 the Atlantic.

17 For porbeagle sharks, again, which
18 were overfished, but overfishing is not
19 occurring, we could keep the porbeagle sharks
20 in the pelagic species unit and simply reduce
21 the current quota. The current quota's 90
22 metric tons. The last couple of years,

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1 landings have been around a ton, and so
2 certainly nowhere near the 90 metric ton per
3 year quota, and that quota is not stockpiled,
4 it's not something that accrues and gets
5 larger every year. It's a clean slate every
6 year, 90 metric tons per year, separated,
7 roughly, 30 metric tons per trimester.

8 Or alternative six. We could place
9 porbeagle sharks on the prohibited species
10 list, again, a commercial quota of zero, not
11 permitted to be harvested in recreational
12 fisheries, it's a prohibited species.

13 Looking at large coastals, the
14 alternative seven would essentially close all
15 large coastal shark fisheries, prohibiting
16 retention of large coastal sharks in directed
17 and incidental fisheries, pelagic longline,
18 bottom longline and gillnet.

19 And also alternative eight would be
20 to basically divide the large coastal shark
21 complex into--and again, moving more towards
22 more species-specific management, the three

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1 most commonly landed species are sandbar,
2 blacktip and tiger. Have species-specific
3 quotas for those three species, and then
4 basically just have the large coastal shark
5 complex be the remaining species that do not
6 have a species-specific quota.

7 Continuing on with quotas and
8 species complexes, we could provide an
9 incidental large coastal shark quota, to cover
10 the catch of large coastal sharks in other
11 fisheries, bottom longline, pelagic longline,
12 and gillnet. Therefore, there would be no
13 directed commercial large coastal shark
14 fishery.

15 Alternative ten. We could
16 establish a large coastal shark quota.
17 Currently, the recreational fishery is not
18 managed under a quota. We could implement a
19 quota, that once met in the recreational
20 fishery, would--essentially the fishery would
21 just switch to catch and release.

22 Another source of mortality for

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1 large coastal sharks, and other species, is
2 the exempted fishing permit program.
3 Currently, we have a 60 metric ton whole
4 weight set-aside that was analyzed in the 1999
5 FMP for display and scientific research.
6 Should we make any modifications to this 60
7 metric ton set-aside? Should we make it more
8 species-specific to reflect the species that
9 are overfished or have overfishing occurring?

10 Are there any modifications that necessary to
11 this program as a result of the--due, in part,
12 because of the recent stock assessments?

13 Moving on to retention limits, this
14 is on page 25, for those of you that are
15 interested in the predraft. Currently, there
16 are, in the commercial fishery there's
17 directed and incidental permits. Directed
18 permits for large coastal sharks have a 4,000
19 pound dressed weight trip limit. No trip
20 limit for pelagic or small coastal sharks.

21 Incidental permit holders have a
22 five large coastal shark trip limit and a

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1 combined sixteen small coastal and pelagic
2 shark limit for incidental permit holders.

3 In the recreational fishery, it's a
4 one shark greater than 54 inches, with the
5 exception of sharpnose and bonnethead, which
6 is one per person, no minimum size.

7 So looking at alternatives that
8 would modify the retention limits, in an
9 effort to reduce fishing mortality, we could
10 reduce the commercial trip limits for directed
11 and incidental permit holders. We could do
12 this specifically for sandbar or for all the
13 shark species within the large coastal
14 complex.

15 We could remove the trip limit for
16 directed permit holders and simply have a
17 quota that, when it is filled by permit
18 holders, the fishery shuts down, with no
19 actual individual trip limit.

20 We could allow the commercial
21 harvest of only male sandbar sharks. Most
22 sharks are readily identifiable by gender,

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1 based on the presence or absence of claspers,
2 and we could do this for sandbar sharks and
3 maintain existing regulations for other
4 species, or do it for other species as well.

5 Moving on to recreational
6 management measures in the context of
7 retention limits, we could prohibit the
8 retention of sandbars and porbeagle sharks in
9 recreational fisheries to reduce fishing
10 mortality. Limit the retention of large
11 coastal sharks in recreational fisheries to
12 only species that can be positively
13 identified.

14 We've heard, we've gotten some
15 feedback that, you know, a lot of recreational
16 anglers aren't as savvy at identifying sharks,
17 and so essentially only allow the species that
18 could be more readily identified--your
19 hammerheads, thresher sharks, tiger sharks,
20 those that most people can identify very
21 easily. We could increase the minimum
22 recreational size limit above 54 inches and/or

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1 introduce a slot limit, the slot limit thought
2 being that you could maybe allow harvest of
3 the smaller and larger sharks but protect the
4 sub adults and the juveniles.

5 Again, similarly, as with the
6 commercial side, we could allow the
7 recreational harvest of only male sandbar
8 sharks, or for other shark species, as
9 necessarily, basically, catch and release for
10 females.

11 Moving into the second, a third, I
12 guess subtheme, within effort controls, is
13 gear restriction alternatives. The
14 predominant gear types for the commercial
15 fishery is bottom longline and gillnet.
16 Bottom longline comprises the majority of
17 large coastal shark landings. Most large
18 coastal sharks that are caught in gillnet are
19 blacktip and in the strikenet fishery.

20 So commercial measures, that may be
21 considered with regards to gear restriction,
22 would be to close the gillnet fishery, remove

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1 gillnets as an authorized gear. This is
2 basically acknowledging a request that we have
3 gotten in the past from the State of Georgia,
4 because of their concerns over bycatch in
5 these fisheries.

6 We could ban shark drift gillnets
7 only and allow shark strikenets, which
8 currently, in the strikenet fishery, about 90
9 percent of the catch is blacktips.

10 We could establish a gillnet
11 endorsement that would basically cap the
12 effort, and only allow the use of gillnets
13 within the five to seven vessels that are
14 still active in the directed shark gillnet
15 fishery.

16 We could similarly, for bottom
17 longline, we could close the shark bottom t
18 fishery, remove bottom longline as an
19 authorized gear type for the shark fishery.
20 Limit the length and/or number of hooks that
21 are set in bottom longline to, you know, five
22 miles of gear and/or 500 hooks per set.

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1 Currently, based on the observer
2 data, most bottom longline fishermen are
3 fishing between five and fifteen miles of
4 gear, and five to 1500 hooks as well.

5 You limit the soak time of shark
6 bottom longline gear in an effort to improve
7 post-hooking survival. We'd require circle
8 hooks on shark bottom longline gear, again, in
9 an effort to increase post-hooking survival in
10 the commercial fishery.

11 Similarly, on the rec side, also to
12 require circle hooks in the shark recreational
13 fishery as a means of improving post-hooking
14 survival in that fishery.

15 The second theme is fisheries
16 recharacterization. We touched on this
17 somewhat yesterday with the proposed rule,
18 describing the proposed quotas and seasons for
19 the second and third trimester.

20 With regards to the regions,
21 currently, there are three regions for the
22 commercial fisheries. There's the North

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1 Atlantic from Maine to Virginia, the South
2 Atlantic from North Carolina to Key West, and
3 then the Gulf of Mexico which includes the
4 west coast of Florida to Texas. We could get
5 rid of those regions and just go back to one
6 region, like it before, in 2004, or we could
7 combine the North and South Atlantic regions
8 so that we'd have a Gulf and an Atlantic
9 region, which would be consistent with the way
10 blacktip sharks were assessed in the large
11 coastal shark assessment and allow us to still
12 manage, you know, more specific regional
13 quotas for blacktip sharks across those two
14 regions.

15 And again, looking at the seasons
16 that are in place. Currently, there's three
17 trimesters, basically just breaking down the
18 year into three four-month segments, January
19 through April, May through August, and
20 September through December. We could keep
21 these three seasons. We could establish
22 semiannual seasons, as it was managed in the

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1 four, basically openers in January and July.
2 We could have one season a year, just open and
3 close the commercial season when the quota's
4 achieved, with five days notice.

5 Or we could have one season a year
6 that is set and closed on a set date, based on
7 what our anticipated or past catch rates have
8 been, and essentially announce a closing date
9 in advance of just, again, one season per
10 year.

11 So again, that is it for my
12 presentation. If you'd like to go through and
13 have the other presentation right now, or
14 maybe take a break. Questions,
15 clarifications. Or we could do a separate
16 breakout session on these first two themes
17 right now; whatever the consensus wants.

18 [Off-mike comments]

19 MR. CLARK: For that presentation.

20 MR. : [Off-mike remarks]

21 MR. CLARK: The advantage, yeah,
22 cause I mean, they're all very interrelated.

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1 You'd have the full sweep.

2 MR. : [Off-mike remarks]

3 MS. JOHNSON: Thanks. Gail
4 Johnson. I have a request, though. For those
5 of us that don't do shark fishing, I'd like to
6 request that one of the shark people sit at
7 each table. So I know what the arguments are
8 here, but after thorough talking, I still
9 don't understand shark fishery.

10 DR. HUETER: Bob Hueter, Mote
11 Marine Lab. Just a real quick question for
12 Mike. The 60 metric ton exempted fishing
13 permit quota--is that being met each year?

14 MR. CLARK: No; not even close.
15 Generally--I mean, we'll authorize up to 50
16 metric tons but once we get the actual annual
17 reports, it's generally less than twenty by
18 the end of the year.

19 MS. FORDHAM: Thank you. Sonja
20 Fordham, The Ocean Conservancy. I have a
21 couple questions about the assessment that
22 probably stem from my missing the last HMS/AP

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1 meeting. I just wanted to know when you think
2 the situation with the Atlantic blacktip
3 status will be resolved. And so you want all
4 three questions at once? You're paying
5 attention?

6 MR. : [Off-mike]

7 MS. FORDHAM: Okay. So when the
8 Atlantic status will be resolved. What you
9 can tell us about--you said that in the Gulf,
10 the blacktips are healthy, and not overfished.

11 But can you tell us, are they completely
12 rebuilt, or are they somewhere between
13 overfished threshold and rebuilt?

14 And then the last question is there
15 are some options for keeping males only in
16 sandbar. Is there some evidence of a skewed
17 sex ratio with the sandbars, that led you to
18 talk about keeping--or is it just a general
19 tool? Thanks.

20 MR. CLARK: Well, I guess I can
21 answer the Gulf of Mexico with regard to the
22 Gulf of Mexico blacktip. The F that they

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1 found basically in the assessment was between
2 .027 and .79, and the B 2004 over BMSY was
3 between 1.43 and 2.56. So based on the
4 threshold levels and the FMP, the F is below
5 one, which is good, and the BSMY is above one,
6 which is good.

7 And they were--blacktips, in the
8 last assessment, were not overfished. So when
9 we say "healthy," it's yes.

10 This is Julie Neer from the
11 Southeast Fisheries Science Center. She can
12 address your questions a little, much better
13 than I can, because she has a lot more
14 intimate knowledge with the assessment.

15 MS. NEER: Okay. First of all, the
16 first question, the issue of the status of the
17 Atlantic. The biggest issue that we had there
18 was that we don't have nearly as much data for
19 the Atlantic as we have for the Gulf. Okay;
20 sorry. We don't have nearly as much
21 information on the blacktips in the Atlantic
22 than the Gulf, and so what happened is that

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1 since we don't have nearly as much historic
2 information, the model showed everything from
3 overfishing occurred and overfish to no
4 overfishing, no--so the problem was that the
5 models were too disperse, and what we're
6 hoping is that with additional years of data,
7 that we'll be able to resolve that issue.

8 Right now it's, mostly it's because
9 we don't have as much data, and the short time
10 series of the data we do have. The models had
11 nothing to really grab on to. So we need more
12 data, basically, for the Atlantic blacktip.

13 MR. : [Off-mike]

14 MS. NEER: Yeah, we're hoping
15 that at the next assessment we'll have at
16 least three more years with the data and that
17 might help resolve the issue. We're also
18 looking at reevaluating the life history
19 parameters for blacktips, both in the Gulf and
20 the Atlantic, and that might provide more
21 information as well.

22 What was the third question?

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1 MS. FORDHAM: I was just curious if
2 there was a skewed sex ratio with the sandbars
3 or you just came up with the options to retain
4 males only, just as a general conservation
5 measure.

6 MR. CLARK: It was just as a
7 general conservation measure.

8 MR. AUGUSTINE: Pat Augustine.
9 Thank you, good presentation and good
10 guidelines, Mike. I have a different
11 question. It seems like we're data poor, and
12 it's been mentioned again and again and again,
13 particularly sandbar and dusky.

14 And I guess my question would be
15 have the other shark experts, are the shark
16 experts in the U.S., including Drs. Jusik [ph]
17 and Burgess, have their databases been
18 accessed or are they available to be
19 considered, and are there others, that are not
20 quite as prominent as those two gentlemen are,
21 in the shark community, whose database could
22 be accessed?

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1 MS. NEER: To our knowledge, we've
2 used, we have used the--i believe you're
3 referring to the bottom longline observer
4 program data from George Burgess. That was
5 included in the recent assessment. The only
6 data that I'm not aware of, that was not
7 initially included in the assessment for large
8 coastal sharks was the North Carolina data
9 from Dr. Frank Schwartz. It has since been
10 analyzed, it wasn't included in this
11 assessment but those results of just that
12 specific time series are available through the
13 SEDAR documents from small coastals, and as
14 far as we know, we have tapped into almost all
15 the data sources that we are aware of, both
16 commercial and recreational, as well as
17 fishery independent.

18 MR. AUGUSTINE: Thank you.

19 MR. HEMILRIGHT: Dewey Hemilright.

20 Coming out of stock assessment, what was the--
21 -how many mature, of the sharks, the sandbar
22 sharks? How many you all--how many are mature

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1 and how many are juveniles, meaning what we're
2 catching? What's the ratio?

3 MS. NEER: I would have to go back
4 and look at the exact numbers out of the
5 assessment. I don't have those, off the top
6 of my head. But we have a copy out in the
7 lobby, so I could look that up. I believe the
8 skew was towards adult females, however.
9 There are more adult females than--adults as
10 opposed to juveniles, but I don't know the
11 exact ratio.

12 MR. HEMILRIGHT: How about from the
13 observer program? What was--I mean, if you're
14 catching--based on the observer program that I
15 looked at, 80 percent of 'em are adult sharks.

16 If you're catching all these adult sharks in
17 your observer program database, or a majority
18 of 'em, how could the stocks be in such bad
19 shape it'd take 'em one to four hundred years
20 to rebuild. I know sharks are slow growing
21 and take a few years to mature.

22 But if over the period of time, you

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1 know, you're staying at mean level, what does
2 that mean? And the second question is if
3 you're saying you need more data for the
4 blacktips in the Atlantic, and it appears that
5 National Marine Fisheries is going with less
6 fishing effort from the commercials, how do
7 you all plan on getting data, or manufacturing
8 it to get a stock assessment to see what's
9 happening in the Atlantic?

10 MS. NEER: Okay. First, let me
11 clarify. What we're seeing in the observer--I
12 don't know the ratios for the observer
13 program. I would have to look that up. And
14 the assessment, I believe I misspoke, a minute
15 ago, when I said the ratios were predominantly
16 adults. I believe the stock assessment says
17 that they are predominantly juveniles. But I
18 have to doublecheck on that.

19 The observer program does seem to
20 show that the--again, I don't have the exact
21 numbers but they're predominantly adults.
22 What we believe is happening there is that the

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1 fishermen are targeting large adult animals,
2 which is why what you see in the observer
3 program and what comes out of the assessment
4 may not match, because there are different--
5 the observer program is only one component and
6 the assessment addresses all components of the
7 fishery that we're looking at, in terms of
8 fishery independent and dependent data.

9 In terms of getting more
10 information, I can't speak to what the
11 ultimate resolution's going to be for
12 management and where that data's going to come
13 from. There's still going to be fishery
14 independent data, for sure. That will
15 probably carry on.

16 And as long as there is some--you
17 know, we will use whatever data is available
18 for us in the future to conduct the
19 assessments.

20 MR. HEMILRIGHT: One last followup
21 question there. So basically you're saying
22 that the observer program, the guys fishing on

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1 the observer is all targeting the big sharks,
2 from your information. What information are
3 the--or where are the juveniles coming from
4 for the assessment part of it, if it's not
5 coming from the observer program?

6 What's driving the juvenile catches
7 or whatever? I'm probably not making myself
8 very clear, but maybe you can understand that.

9 MS. NEER: Like I said, the
10 assessment is based on a variety of data
11 sources, so we have commercial information, we
12 have fishery independent information. So
13 those two sources combined produce the
14 assessment model. So we'd have to look at
15 each data source independently to see what--I
16 don't know if there's a way to figure out what
17 is driving one versus the other.

18 Like I guess you could go and look
19 at the percentage of juveniles versus adults
20 in each series that was looked at. But it's a
21 combined thing. It's not one versus the
22 other. It's all the information combined,

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1 produces ultimately the estimates at the end.

2 MR. HEMILRIGHT: And what happens
3 if you take Jack Musik's [ph] data out of the
4 data set? I guess it's the Virginia Institute
5 of Marine Science longline survey.

6 MS. NEER: I don't believe we ran a
7 sensitivity without that; but I'd have to
8 check. I don't know what would happen, would
9 have to rerun the model. But there's no
10 indication to remove that data from the
11 overall assessment. The data was reviewed at
12 the data workshop by the indices group and
13 determined appropriate for use in the
14 assessment. So I'm not sure why we would want
15 to remove that data set.

16 MR. HUDSON: Rusty Hudson, Directed
17 Shark. Good morning, Julie. I've got a
18 couple a questions. I believe my first
19 question will deal with the Atlantic blacktip.
20 You were talking about gaining more
21 information.

22 As we both know, 1990, and on back

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1 into the past, you have absolutely no
2 commercial landings of blacktip on the East
3 Coast. That is a big problem, since
4 originally, the shark market that developed in
5 the early '80s focused on blacktip near shore
6 and continued until we developed the sandbar
7 shark market in prominence about '87.

8 How would you suppose we could go
9 about doing a data rescue, in order to get
10 that data, so that you can get past your
11 unknown status on Atlantic blacktip and get
12 into trying to do a actual assessment?

13 The other part of the equation that
14 you're talking about, Julie, is getting more
15 data from the current catches, and as you
16 know, the whale plan has shifted the gillnet
17 fleet further to the south, it has changed
18 their seasonality and the places that they can
19 fish.

20 So I would believe that you're
21 going to have even more limitations on getting
22 blacktip landings, especially with like '97,

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1 the very little bit of fishing that we get to
2 do, starting in August, there'll be absolutely
3 no fishing, you know, from January 1st through
4 August. So we have no blacktip landings
5 except for, as you say, fishery independent
6 perhaps.

7 MS. NEER: Again, I don't know how
8 it's going to fall out in terms of what the
9 actual management and implications are going
10 to be for additional data in the future.

11 As I said, we'll have to do the
12 best we can with what we have in the future to
13 work with.

14 Now remember, the assessment
15 stopped in 2004, the data, so we will have
16 2005 data, 2006 data from the commercial
17 fleet, plus whatever goes on in the future.

18 And we'll continue to try to get
19 fishery independent data. Perhaps the fishery
20 independent data research will have to be
21 expanded. I can't say for sure, where all
22 this new data is going to come from, other

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1 than the fishery independent stuff, which will
2 most likely be continued. Again, I don't know
3 what management is going to do, so I can't
4 speak to how this data is going to come in.

5 And also as data shifts, I can just
6 comment on the fact that things such as region
7 and time of year can be used as factors in the
8 model, so that there are ways to use, continue
9 a time series, even if regulations and things
10 affect and shift that plan.

11 So it still can be whatever data we
12 can get can be utilized. As far as the data
13 rescue thing, I think I'm going to pass that
14 back to Mike cause I'm not sure how you move
15 forward with data rescue, other than asking
16 for people to provide data.

17 MR. CLARK: Yeah, I mean, and to
18 the extent that, you know, following the SEDAR
19 process is, you know, sort of a very time-
20 consuming process, and to basically, you know,
21 have to reinitiate the assessment to include
22 this additional data, rerun the models and

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1 then have that reviewed again, it's just not
2 feasible.

3 And keep in mind, I mean, the
4 assessment found that the status was unknown
5 but they also said that landings should not
6 change. So potentially that, you know, could
7 still--landings can still stay the same as
8 they have, despite the unknown status.

9 MR. HUDSON: I believe what you're
10 saying, Mike, is that as far as the blacktip
11 portion of our annual quota, that should
12 remain the same, both based on the rebuilt
13 status of the Gulf blacktip and the unknown
14 status of the Atlantic blacktip. That you're
15 more or less saying that roughly what? 40, 50
16 percent, maybe, of the total catch can still
17 be allowed. So out of 2.2 million pounds,
18 you're talking about a million pounds of
19 blacktip, roughly speaking; is that about
20 correct?

21 MR. CLARK: I guess maintaining the
22 landings as they have been would be following

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1 the advice of the assessment, both the Gulf
2 and the Atlantic.

3 MR. HUDSON: Okay. I can tell you,
4 and if NMFS honestly believes that zero pounds
5 is the correct figure to inject for 1990, '89,
6 '88, '87, '86, '85, '84, for Atlantic
7 blacktip, NMFS is in error. And I also
8 believe it's up to the science center and not
9 SEDAR to set the dates, and if the science
10 center has this absolute faith in that
11 particular part of the assessment, then I
12 guess it really doesn't go back to the
13 science, it goes to the lawyers at that point.

14 So part of what we're trying to say
15 to you is that industry has no faith in the
16 particular stock assessment that was done in
17 2006, and the previous one in 2002 was looking
18 a little better but that was the first one we
19 had had since four years prior, in '98. We
20 haven't had 'em every two years, as some
21 people believe.

22 Sometimes there's been a break in

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1 all that. And so I guess before I get to my
2 other questions, I think some people might
3 want to sort of followup. I saw Dick.

4 MR. STONE: Dick Stone, National
5 Marine Manufacturers Association. To the data
6 point that Rusty's making, one of the goals of
7 the Atlantic Coastal Cooperative Statistics
8 Program is to populate the data warehouse that
9 they have, and part of that is populating it
10 with historical data. So now a lot of that
11 would come from states, but it seems to me
12 that, you know, at least long term, there is a
13 goal to do that, and so that would be
14 something that HMS should be aware of and
15 should follow up on.

16 MR. CLARK [?]: Not to be pedantic,
17 but because there are many people in this room
18 who aren't in the shark fishery and don't
19 necessarily know about these animals, I just
20 felt compelled to make a few points.

21 One is that there is a sound
22 biological reason why the blacktip would be in

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1 better shape than the sandbar. The blacktip
2 is a very fast-growing species as compared
3 with the sandbar, that they reach maturity in
4 about five years. Sandbar is more like
5 fifteen.

6 So this result may look strange,
7 and why would one be better than the other,
8 maybe there's some problems with the data set.

9 No; no. There's really a sound reason as to
10 why the blacktip has recovered and is much
11 healthier.

12 Second, know that these animals do
13 segregate by size and sex, to a great extent.

14 Not absolutely; but to a great extent. So
15 you can target them at a certain size and
16 certain sex by going to those areas that the
17 fishermen probably know even better than the
18 biologists, quite frankly.

19 And the last is that in terms of
20 the separation into areas, we do know through
21 tag returns that there's a large exchange rate
22 between the Atlantic and the Gulf for

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1 sandbars. A lot of tagged animals off the mid
2 Atlantic end up off of the west coast of
3 Florida, for example, and in the Gulf in the
4 wintertime.

5 So they move back and forth through
6 the Florida straits; no question. Blacktips,
7 it's not nearly as strong. It really looks
8 like Gulf blacktips pretty much stay in the
9 Gulf and Atlantic blacktips stay in the
10 Atlantic.

11 So there are very sound scientific
12 bases for the results that we have this
13 morning.

14 MR. : I guess my next question
15 will be dealing with the model that was used
16 between the sandbar and the dusky shark. Was
17 that the same model, Julie?

18 MS. NEER: The sandbar model that
19 was used I believe was one of the many models
20 that were used for dusky sandbar. Four models
21 were proposed at the assessment workshop. One
22 model was decided on by the panel as the most

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1 appropriate. That's the one that is in the
2 report.

3 But all four models, the
4 information about those are available in the
5 assessment documents. The dusky shark I
6 believe had--I don't know the exact number--
7 seven or eight different models were looked at
8 and all came up with the same general
9 conclusion.

10 MR. : As a followup to that,
11 the dusky shark assessment was not peer
12 reviewed; is that correct?

13 MS. NEER: The dusky shark
14 assessment was peer reviewed by the Northeast
15 Fishery Science Center before release to the
16 public. So it was finished by the Southeast,
17 the Southeast deemed that it was necessary for
18 review, they went it to the Northeast center,
19 who had two or three people review that. The
20 Southeast scientists incorporated their
21 comments, additions, requests for information,
22 and then that was finally what was released.

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1 MR. : So you're telling me that
2 that was a NMFS in-house review, not an
3 independent review contractor?

4 MS. NEER: It was NMFS in house.
5 However, it was independent, as in it was
6 reviewed by scientists who weren't involved in
7 the assessment. It has not been reviewed, by
8 say, the CIE at this point.

9 MR. : Well, being that I've
10 been going over the comments, and I notice
11 that my final comments, eleven pages long, was
12 not included in the comment book, and in
13 there, in my bullets under housekeeping, and I
14 had asked yesterday for a copy of the actual
15 stuff today, if possible.

16 But it seems that the CIE, we don't
17 feel is totally independent. There were five
18 people chosen, and I believe it's true that
19 the chairman, Andy Paine, out of CEFUS [ph] in
20 England, a deal that CIE made with CEFUS in
21 England, it's actually in the same office at
22 Murdock McAllister [ph] and also, I guess I

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1 can call her "Yoda" cause I can't pronounce
2 her entire Greek name, but she was actually
3 part of the assessment in February of this
4 past year, and Murdock of course in the
5 previous two assessments, in 2002 and 1998,
6 and had been hired originally by the WCS, Alan
7 Pickname [ph] and stuff.

8 But what I guess I'm saying is that
9 we have a hard time believing that CEFUS [ph]
10 is truly independent. Furthermore, with Colin
11 Simfendorfer [ph] and Steve Campana [ph], both
12 of those people that were reviewing, out of
13 the five, they were two of the five, were not
14 CIE; is that correct?

15 MS. NEER: Yes; those two were not
16 CIEs. They were brought in specifically for
17 their expertise in shark biology and stock
18 assessment.

19 MR. : And it is true that
20 they've been working on NMFS projects for
21 several years with various sharks?

22 MS. NEER: I don't know their exact

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1 funding histories. I know that they have
2 worked with NMFS scientists in the past.

3 MR. : And did they have to sign
4 the same conflict of interest statement that
5 the CIE review scientists did?

6 MS. NEER: I don't know.

7 MR. : Going back to the sandbar
8 shark assessment, the selectivity curve is a
9 size that you sort of give to the overall
10 average of the sandbars from Maine to Texas;
11 is that true?

12 MS. NEER: Selectivity curves are
13 designed to try and find a way to incorporate
14 the ages in this case, since we were looking
15 at age structured models--age in this case is--
16 -age determined through size, to try and
17 incorporate and grasp the fact, what age
18 classes you would see would be vulnerable to
19 that gear. So it's not sort of an average
20 size of sandbar sharks from the area. It's
21 looking at the data and the size of the
22 animals that were actually caught, along with

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1 the size of the animals that could potentially
2 be caught by that gear, and it tries to grasp
3 the fact that for certain gears, smaller or
4 larger individuals may or may not be caught.

5 MR. : With the sandbar
6 assessment, was the selectivity curve the same
7 throughout all the regions, and also applied
8 to the VIMS data?

9 MS. NEER: We had a variety of
10 selectivity curves. They were broken down
11 based on gear type, so it's impossible to say
12 that the same selectivity curve was used for
13 all areas. It was based on the gear that the-
14 -we had separate selectivity curves based on
15 the gear types. So I would hazard a guess
16 that they were probably different. If you had
17 different gear types in different regions, the
18 selectivities may have been different.

19 MR. : Are you familiar with the
20 Hester-Mondor [ph] document that the industry
21 had prepared for review, that we still haven't
22 got feedback from? But are you familiar with

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1 it?

7A

2 MS. NEER: As you said, you haven't
3 heard official comment back at this time, and
4 so I can't speak to official comment on those
5 issues. If you have a specific question, I
6 can try and address it.

7 MR. : Last February, when we
8 were in Miami at the assessment workshop and
9 we had asked why the Musik [ph] data did not
10 give us the size, sex, stations of the sandbar
11 sharks in his 30 year series, and I believe
12 that you felt that it would have been a very
13 good thing to have had in the model, and had
14 we also run a sensitivity without the VIMS
15 data, that based on the Hester-Mondor
16 document, that it would have made a
17 substantial difference based on our analysis.

18 And you said that we could not
19 compel Jack Musik and VIMS to give us that
20 data at this time. In a recent e-mail, Jack
21 Musik made a point of saying that it was
22 proprietary, even though there is some federal

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1 money involved in it, that he won't give it
2 up, and to NMFS or anybody, until what time
3 he's ready to publish it.

4 Are you familiar with that?

5 MS. NEER: Yes. I know that Jack's
6 data has been an issue for some time. This is
7 the Virginia longline data collected by Jack
8 Musik of Virginia Institute of Marine Science,
9 for those of you who aren't familiar, and I
10 know that there has been much discussion, back
11 and forth, between HMS and the Southeast
12 Fishery Science Center, and the industry, and
13 they're still working on resolving that issue.

14 MR. : The sandbar and the
15 dusky are what we call highly migratory
16 species, and it is also known as a straddling
17 stock with Mexico. And is it a fact that
18 roughly 6 percent of the sandbar tags have
19 been recovered by Mexico and roughly 16
20 percent of the dusky tags have been recaptured
21 by Mexico?

22 MS. NEER: I don't know if those

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1 percentages are correct, I'd have to go back
2 and check, but I know that there has been some
3 tax exchange between the two regions.

4 MR. : Does Mexico work with us
5 on any of the assessments of sandbar? I mean,
6 blacktip, dusky, any of the other large
7 coastals, at all?

8 MS. NEER: We have made attempts to
9 try and get some of the data from Mexico. We
10 had some data that we used in the 2002
11 assessment. Unfortunately their database,
12 their long-term database was lost. So when we
13 tried to get additional data to update the
14 2002 estimates, they were not available
15 because Mexico no longer has them.

16 MR. : [Off-mike]

17 MR. : With the sandbar and
18 dusky, they over-winter in Mexico, generally
19 speaking, the transient stock. We have some
20 residential stock, and the juveniles of course
21 stay residential. I liked what Bob said, that
22 it roughly takes 15 years for a sandbar to

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1 mature, which in my opinion is eight to
2 thirteen, and traditionally, we've used around
3 that 13 to 15 years.

4 But did we not increase the age of
5 maturity for 50 percent of the population to
6 nineteen and virtually 26 years of age for the
7 sandbar, once you get it at 95 percent plus
8 maturity?

9 MS. NEER: The maturity OJIVE [ph]
10 that was used in the 2006 assessment is based
11 on Rebecca Merson's dissertation, and that
12 indicated a later age of maturity than what
13 was previously used in the 2002 assessment.

14 MR. : And the Rebecca Merson
15 data combined two different sources of
16 samples, and those samples no longer exist?

17 MS. NEER: I don't believe the
18 reproductive examples exist. Are you talking
19 about the vertebrae? I'm not sure that--I
20 don't believe they exist either at this time.

21 They certainly don't exist for the earlier
22 time period, they weren't maintained, and her

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1 directive study, they weren't maintained
2 either and that was because they had just
3 completed a age and growth study, Musik and
4 Schmik [ph], that you're aware of, that just
5 finished their age and growth study about
6 three years prior.

7 So they felt that since it was the
8 same region and the same species, that that
9 was adequate to use the growth curve developed
10 through that recent study at the time.

11 MR. : And the 1995 Schmik/Musik
12 study you talked about, and the 1998 Rebecca
13 Merson dissertation that you're referring to,
14 we basically have issues with that demographic
15 because it's extreme, and we feel that the
16 maturity OJIV, the ability to go and go by
17 region with the size frequencies for sandbar,
18 in particular, is extremely important.

19 We feel, personally, that NMFS
20 should revisit the sandbar assessment, unless
21 they have complete faith that that's the
22 example.

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1 But you have the observer program
2 running out of your lab now and are you seeing
3 mostly juvenile sandbars being caught in the
4 Gulf of Mexico, for instance, or is it
5 predominated by adults?

6 MS. NEER: I don't know what the
7 breakdown is. I would have to go back and
8 look at the data. I don't actually run the
9 observer program or handle the data.

10 MR. : One final comment. Dr.
11 Liz Brooks had made a statement that we were
12 like Buffalo Bill. That we were about to
13 shoot the last buffalo when it came to sandbar
14 and dusky. We firmly don't believe that. We
15 think the biomass is much larger than what
16 NMFS says, and that somehow you've got a
17 choice here. You've got the choice of either
18 putting us all the way out of business with
19 this science or you have the choice of being
20 able to maintain the status quo and get on to
21 the 2009 potential large coastal shark
22 assessment or reassessment, and also somehow,

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1 the sandbar and dusky thing needs to be
2 revisited before amendment two puts us the
3 rest of the way out of business. That's my
4 final statement.

5 MS. SCHULZE-HAUGEN: Okay. Well,
6 clearly, there are concerns and questions on
7 the assessment and thank you very much, Julie
8 for fielding those. She will be available, if
9 you have additional questions. You can seek
10 her out.

11 So at this point, why don't we move
12 to the next presentation.

13 MS. WILSON: I am Jackie Wilson.
14 So I'm going to go over the last two kind of
15 main categories in the predraft. Mike just
16 touched on the EFER controls and fisheries
17 recharacterization, and I'm going to be going
18 over the time area closures and monitoring and
19 compliance.

20 As Mike did in the first
21 presentation, I'm going to be just running
22 through the alternatives, giving you some

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1 background and context, but we ask, for the
2 sake of time, that you refer to the impacts
3 associated with those alternatives in the
4 predraft during your breakout session.

5 So jumping right in here, time area
6 closures have been--there have been a time
7 area closures implemented in the past to
8 reduce bycatch or protected species and non-
9 target HMS. However, several shark species
10 are still interacting with HMS gears, and as
11 Mike has already gone over in the first
12 presentation, dusky and sandbar sharks are now
13 considered overfished with overfishing
14 occurring, and porbeagle sharks are considered
15 overfished.

16 In both the incidental and target,
17 or directed catch of sharks, with the variety
18 of HMS gears in both the recreational and
19 commercial fisheries, are basically
20 contributing to the overfishing of these
21 species.

22 So NMFS, in amendment two, is going

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1 to be considering some new time area closures,
2 as well as modifications to current time area
3 closures, to reduce these interactions.

4 Now in amendment two, NMFS is going
5 to consider new time area closures for a
6 variety of gear types, which include bottom
7 longline, pelagic longline, and gillnet gear,
8 as well as looking at modifications to the
9 existing closures.

10 We are going to be also evaluating
11 the effectiveness of those current time area
12 closures, such as the Mid Atlantic shark
13 closed areas, and determining whether or not
14 any sort of modifications are warranted at
15 this time.

16 So the first alternative, which
17 you'll see for the rest of the issues that I'm
18 covering today, is the no action alternative,
19 which would be to maintain the current time
20 area closures and not have any modifications.
21 as well as not to implement any new time area
22 closures.

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1 The second alternative would be to
2 modify existing time area closures, that is,
3 to potentially reduce or increase the current
4 time area closures, and this includes
5 reevaluating the Mid Atlantic shark closed
6 area.

7 The third alternative would be to
8 establish new time area closures specifically
9 for bottom longline gear and this would be to
10 reduce bycatch of dusky and juvenile sandbar
11 sharks, smalltooth sawfish and sea turtles.

12 The fourth alternative would be to
13 establish new time area closures for gillnet
14 and pelagic longline gear, specifically.
15 Again, this would be to reduce bycatch of
16 dusky and sandbar sharks, smalltooth sawfish
17 and sea turtles.

18 We'd also be looking at the bycatch
19 and discards of these species in the Mid
20 Atlantic closed area, specifically on gillnet
21 and pelagic longline gear, so we'll be
22 reevaluating, or we would be reevaluating that

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1 closure in the context of these new gear
2 types.

3 Okay. The next alternative would
4 be considering closing the marine protected
5 areas, or MPAs listed in the South Atlantic
6 Fishery Management Council's amendment 14A to
7 shark bottom longline gear.

8 With now, the South Atlantic
9 Council is considering closing 11 MPAs to
10 bottom longline gear. This is being done to
11 reduce bycatch of the snapper/grouper complex
12 in these areas.

13 The South Atlantic Council has
14 asked HMS to implement complementary measures
15 in these MPAs and consider closing them to
16 shark bottom longline gear.

17 And so you'll see, in the next few
18 slides, I'll show you the location of those
19 MPAs as well as the observed sets that we
20 have, which intersect with those MPAs, to kind
21 of give you some idea of where they're
22 located.

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1 The seventh alternative would be
2 considering closing all federal waters in the
3 Gulf of--I'm sorry. I'm on number six. I got
4 ahead of myself. Closing all federal waters
5 in the Atlantic Ocean to commercial shark
6 fishery. This would be the commercial shark
7 gillnet and bottom longline fisheries, as well
8 as prohibiting the retention of large coastal
9 sharks in the PLL fishery.

10 So as mentioned before, dusky and
11 sandbar sharks are overfished, with
12 overfishing occurring. The status of blacktip
13 sharks is unknown, so potentially closing the
14 Atlantic Ocean would help rebuild these
15 stocks.

16 The seventh alternative would
17 consider closing all federal waters in the
18 Gulf of Mexico to commercial shark fishery and
19 prohibiting the retention of LCS on pelagic
20 longline gear.

21 This again would help eliminate the
22 catch of overfished species in the directed

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1 shark commercial fishery, as well as it's
2 being considered as one of the alternatives in
3 the range of alternatives that we would be
4 considering in amendment two.

5 The eighth alternative would be to
6 consider new time area closures for pelagic
7 longline gear to reduce bycatch of dusky
8 sharks and porbeagle sharks.

9 Porbeagle sharks are considered
10 overfished and Canada has put them on their
11 endangered species list. Pelagic longline
12 gear is the predominant gear that interacts
13 with porbeagle sharks. So this would be one
14 of the gears we would consider for time area
15 closure for the species. Dusky sharks are
16 overfished, with overfishing occurring, and of
17 the pelagic longline sets that interact with
18 dusky sharks, dusky sharks, according to the
19 logbook data, have been the predominant LCS in
20 those sets.

21 So again, this would be something
22 we'd be looking at to reduce bycatch of these

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1 species.

2 Okay. Next, what I'm going to do
3 is run through a couple of slides that are
4 basically meant to illustrate the types of
5 data we would be considering when we are
6 evaluating new time area closures and
7 modifications to time area closures.

8 Again, these slides are not to
9 pinpoint time area closures at this point, but
10 again, just to illustrate what we were looking
11 at when we're trying to figure out locations,
12 time periods and gear types that might apply
13 for new time area closures.

14 In addition, we're going to be
15 looking at self-reported data and observer
16 program data, and we're also going to be
17 considering a suite of species as we did in
18 HMS/FMP, and how this suite of species are
19 affected by time area closures.

20 So we're not going to be focusing
21 in just on sharks, but we'll also be
22 considering tunas and billfish and sea

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1 turtles, etcetera.

2 Now this slide is showing the
3 interactions of dusky sharks on bottom
4 longline gear. These data are from the bottom
5 longline observer program from '94 through
6 2003, and the maturity stage as well as the
7 symmetry [ph] associated with the individual
8 catches are shown. Okay.

9 What I want you to know is that
10 this is observer program data. So the total
11 number of dusky interactions on bottom
12 longline gear is not shown here because the
13 observer program only covers a small
14 percentage of the fleet.

15 We're also going to be looking at
16 seasonal variation and interactions with
17 different gear types, and what this slide is
18 showing is basically the seasonal variation in
19 dusky shark interactions with bottom longline
20 gear.

21 Again, this is from the bottom
22 longline observer program from '94 to 2003,

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1 and what this is showing in this case is that
2 dusky interactions in the Southeastern United
3 States tend to occur more in the winter than
4 in the spring.

5 So NMFS would consider the seasonal
6 variation of when species are in a given area,
7 when considering new time area closures to
8 reduce bycatch.

9 We're also going to be looking at
10 self-reported data. This is showing you the
11 statistical reporting areas or grids from the
12 coastal fisheries logbook. Okay. This is
13 showing data from 1991 through 2003.

14 And what we're showing here are the
15 total weight of dusky sharks that have been
16 landed in pounds in the different statistical
17 reporting areas.

18 So NMFS will be considering self-
19 reported data in addition to observer program
20 data.

21 We're also going to be looking at
22 different gear types that interact with

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1 sharks. For instance, this slide here is
2 showing sandbar shark discards on pelagic
3 longline gear. Okay. Pelagic longline gear
4 isn't typically the primary gear used to
5 target sharks, but as you can see here, in
6 this case, sandbar sharks are obviously
7 interacting with pelagic longline gear.

8 So we're going to consider a
9 variety of gears for new time area closures.

10 This is basically showing you just
11 the location and number of discarded sandbar
12 sharks. It comes from the HMS logbook, from
13 2001 through 2005.

14 NMFS will also be considering
15 different management measures that occurred in
16 the fisheries, such as the implementation of
17 circle hooks in the pelagic longline fishery.

18 This slide here is showing you the
19 number of sandbar discards after circle hooks
20 have been implemented. So this is from August
21 of 2004 through December of 2005.

22 Now the point of this slide is

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1 basically to compare where sandbar discards
2 are occurring since the implementation of
3 circle hooks.

4 So when we compare this slide to
5 the previous slide, the previous slide
6 included five years of data from 01 to 05.
7 This slide here is only showing you a year and
8 a half of data, from August 04 through 2005.
9 So we don't want to compare absolute numbers.

10 It's mainly to compare where these
11 interactions are taking place, after there's
12 been a change in the management regulations.

13 We're also going to look at gear
14 types that are used to target certain shark
15 species. This slide here is showing you the
16 porbeagle shark discards on pelagic longline
17 gear. Pelagic longline gear is one of the
18 primary gears used to catch porbeagle sharks.

19 This again is taken from HMS
20 logbook data from 01 through 05. It's just
21 showing you the location and number of
22 porbeagle shark discards that are occurring in

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1 the PLL fishery.

2 The gray dots are where the sets
3 occurred and the black dots where the actual
4 discards occurred.

5 So the point here is that NMFS will
6 be using a variety of data sets, both self-
7 reported and observer program data. We'll be
8 looking at a variety of species and a variety
9 of gear types when we consider new time area
10 closures as well as modifications to the
11 current time area closures.

12 All right. Next, I want to just
13 switch over to the MPAs that are currently
14 being considered in amendment 14A by the South
15 Atlantic Council.

16 What I'm showing you here are the
17 nine southernmost MPAs in amendment 14A.
18 Overlaid are the observed sets from the
19 observer program data that intersect with
20 those MPAs. The actual number of sets that
21 intersect with the MPAs are given in
22 parentheses by the name of the MPAs. Okay.

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1 So this is just to show you the location of
2 those MPAs. There are two other ones, the sea
3 bass rocks, and Florida east hump, an unnamed
4 hump here. These are the two southernmost
5 MPAs that we're showing you.

6 Again, this is overlaid with the
7 observed sets that interact with those marine
8 protected areas. So we'll be considering
9 closing the MPAs to shark bottom longline gear
10 in amendment two as well.

11 Okay. On to the next topic of
12 monitoring and compliance. The first thing
13 I'm going to touch on is the vessel monitoring
14 system and the alternatives that we're
15 considering in amendment two for VMS.

16 Now in amendment one to the '99
17 FMP, it required that all directed shark
18 permit holders that deploy bottom longline
19 gear have to implement, or basically install a
20 VMS unit and have it operating when they're
21 fishing in the vicinity of the Mid Atlantic
22 shark closed area.

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1 This is from January 1 through July
2 31st of each year.

3 In addition, all directed shark
4 permit holders that have, or deploy gillnet
5 gear, regardless of location, have to install
6 and operate a VMS unit during the Atlantic
7 Right whale calving season. This is November
8 15th through March 31st of each year.

9 And these regulations were
10 implemented so that the fishing activity in
11 the vicinities of the Mid Atlantic shark
12 closed areas could be monitored, as well as
13 fishing activity during the Atlantic Right
14 whale calving season.

15 Now if additional time area
16 closures are implemented in amendment two, we
17 may need to expand the universe of vessels
18 that currently have VMS installed and
19 operating.

20 We're also considering increasing
21 the reporting frequency of VMS. Currently
22 boats that have to have VMS installed and

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1 operating have to report once an hour. We're
2 considering increasing that to perhaps once
3 every 15 or 30 minutes.

4 We're also considering requiring
5 "hail in" and "hail out" requirements where
6 fisherman have to contact Enforcement, let
7 them know the type of bear they plan on using
8 during that trip and let Enforcement know when
9 they're back at port.

10 These regulations basically will
11 help make the VMS regulations more consistent
12 with council-managed species. For instance,
13 in the Gulf of Mexico the refish fisheries
14 have to declare to Enforcement their permanent
15 activity and the gear they plan on deploying,
16 as well as they have to transmit their VMS
17 locations once every hour or once every ten
18 minutes, if they're in a closed area, 24 hours
19 a day, seven days a week.

20 So NMFS is basically considering a
21 range of alternatives that pertain to VMS in
22 amendment two. The first one would be the "no

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1 action," which would be to maintain the
2 current VMS regulations, and again, like I
3 said before, for boats that are required to
4 carry VMS, they have to report once an hour.

5 We're also considering increasing
6 the reporting frequency for gillnet and BLL
7 vessels that are currently required to possess
8 VMS. This is basically being considered on
9 behalf of Enforcement, who have requested that
10 we increase the frequency to perhaps once
11 every 15 or 30 minutes, so that fishing
12 activities can be better monitored in a given
13 area.

14 Some of the fishing activities that
15 take place, such as strike netting, happen
16 over a particularly fast time period, and when
17 Enforcement gets reports on these types of
18 activities, they may only get one or two
19 reports when an actual strike fishing activity
20 is taking place. So increasing that reporting
21 frequency would give Enforcement a better idea
22 of the type of fishing activity that is going

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1 on.

2 NMFS is also considering to make it
3 mandatory to have VMS for all gillnet and
4 bottom longline vessels that possess directed
5 shark permits, that fish in the vicinity of a
6 time area closure.

7 So this would be increasing the
8 universe of boats that currently possess VMS
9 units, if we implement any new time area
10 closures, so that we can monitor fishing
11 activities in those given areas.

12 The fourth alternative would be to
13 require a "hail in" and "hail out" requirement
14 where fishermen will call into Enforcement and
15 declare the type of fishing gear they plan on
16 using on a fishing trip. They also tell--or
17 call into Enforcement when they return to
18 port, so Enforcement knows when they're no
19 longer fishing. Fishermen would still have
20 the flexibility to call in during a fishing
21 trip if they chose to change their fishing
22 gear. So they wouldn't be constrained to

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1 using one fishing gear throughout a fishing
2 trip.

3 This will help Enforcement
4 basically be able to better enforce certain
5 gear requirements that are associated with
6 different time area closures. The last
7 alternative under this deals with requiring
8 professional installation and repair of VMS
9 units, and a visual indicator on that VMS
10 unit, that would let the operator know when
11 the unit is powered on and transmitting.

12 This would help just improve the
13 overall kind of installation and correctly
14 functioning units. Right now, the biggest
15 problem that people have is if a unit is no
16 longer transmitting, if there's no visual
17 indicator, a lotta times the vessel operators
18 won't know that such an occurrence has
19 happened.

20 So by requiring professional
21 installation and repair, we know the units are
22 working correctly. By having a visual

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1 indicator, the vessel operators know when a
2 particular unit has failed.

3 The last topic I'm going to cover
4 in this presentation is dealer reporting. Now
5 fish dealers who wish to purchase shark
6 products, they have to purchase those shark
7 products from a vessel that has a federal--or
8 from someone who is a federal shark permit
9 holder.

10 These fish dealers also have to get
11 a shark dealer permit. Shark dealers can only
12 buy shark products from vessels that have
13 federal commercial shark fishing permits, and
14 the shark dealers have to report to NMFS on
15 any shark products that they purchase from a
16 U.S. vessel, on a biweekly basis, and these
17 reports need to be submitted within ten days
18 of the end of the biweekly reporting period,
19 and that's the 25th and 10th of each month, I
20 believe.

21 Now these alternatives are
22 particularly germane in light of the

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1 overharvest that occurred in 2006 in the large
2 coastal and small coastal shark fisheries. So
3 NMFS is considering a range of alternatives
4 for ways to actually improve shark dealer
5 reporting and quota monitoring.

6 The first alternative is the "no
7 action." Dealer reports would still be done
8 on a biweekly basis. They have to be
9 submitted within ten days of the end of that
10 biweekly reporting period.

11 The second alternative is similar
12 to the "no action," except that NMFS would
13 actually have to receive those reports within
14 ten days. Right now, the regulations
15 stipulate that the reports have to be
16 postmarked within ten days. This would change
17 it, that NMFS would have to actually receive
18 those reports within ten days of the end of
19 the biweekly reporting period. This would
20 ensure that NMFS actually receives those
21 reports in a more timely basis and hopefully
22 lead to more effective quota monitoring.

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1 The third alternative is to have
2 dealer reports received by NMFS within five
3 days of receiving product. Again, this would
4 basically require more timely reporting. NMFS
5 would have more timely data in hand to monitor
6 the quotas, and hopefully prevent the
7 likelihood of overharvest occurring in the
8 future.

9 In addition, if quotas are actually
10 reduced under the new rebuilding plans, and
11 seasons are reduced to accommodate those
12 reduced quotas, we'll have to have more timely
13 reporting so that we can effectively monitor
14 the quotas in the future.

15 The last alternative has dealer
16 reports being faxed or e-mailed to NMFS within
17 24 hours of receiving product. Again, this
18 would just have more timely data, more timely
19 reporting to NMFS so that quotas can be more
20 effectively monitored.

21 So that concludes the issues and
22 alternatives that I'm going to go through. I

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1 think we'll take a quick question-and-answer
2 session, yeah, clarification, and then we're
3 going to go to the breakout sessions, and
4 during the breakout sessions, just a quick
5 reminder, we want to get feedback on the range
6 of alternatives, if you think it's
7 appropriate, if there are alternatives you
8 think that should be included that are not, or
9 if there are alternatives in there that you do
10 not think are germane to the issue at hand.

11 We also would like you to consider
12 the impacts that we have outlined in the
13 tables in the predraft. Let us know if
14 they're appropriate or if they're ones that we
15 have forgotten that need to be included.
16 Okay. So with that--

17 MR. : [Off-mike remark]

18 MS. JOHNSON: Thanks. Gail
19 Johnson. Two questions. First of all, from
20 somebody who knows more about porbeagles than
21 I do, I was under the impression that they
22 were cold water sharks. And the other thing

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1 is that in the packet, there's a picture here
2 that shows pelagic longline catches of them,
3 there's a bunch of them in the Gulf of Mexico,
4 but it's not in this thing here.

5 So I sure would like to see it, and
6 tell me about porbeagles.

7 MS. WILSON: Well, just, you know,
8 we didn't include all of the graphs that are
9 in the presentation, are in the predraft.
10 What we included in the predraft are mainly
11 figures that have been distributed in the
12 past. In the presentation, we put some newer
13 figures that we have just been able to
14 basically create in our GIS mapping and stuff,
15 and we're able to include those in the
16 presentation.

17 So we can try to get you--if you
18 want a bigger picture of that, okay, we can do
19 that. I guess in terms of porbeagle sharks, I
20 think if you look at that, the majority of the
21 discards are occurring out in the NED, they're
22 farther offshore there. I don't know all that

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1 much, in particular, about the particular, you
2 know, water temperature that they're
3 associated with, but--

4 MS. JOHNSON: This is so small,
5 that I can't tell. But are all of these dots-
6 -these are just sets and interspersed among
7 them, I mean, cause it says there's 2400
8 catches from 01 to 05. But i can't tell where
9 they were. Those black dots are where they
10 were caught in the Gulf of Mexico?

11 MS. WILSON: Yes. These are
12 reported from the HMS logbook. These are the
13 coordinates of the sets. In this case we're
14 showing discards that occurred of porbeagle
15 sharks. The gray dots are the sets, the black
16 dots are where the discards actually occurred.

17 So this is coming from the HMS logbook data
18 and this is showing discards. And if you like
19 a bigger blown-up map of that, we can get you
20 that.

21 MR. AUGUSTINE: Thank you. Pat
22 Augustine. Two questions. You noted a

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1 significant difference in discards once the
2 requirement came out that they had to use
3 circle hooks. The question is: Had you
4 further qualified the circle hooks as being
5 either straight or offset, and my guess is
6 because they are commercial fishermen, they're
7 using offset, and experience in reading
8 reports about offset, circle hooks, they're
9 very effective, particularly when the animal
10 swallows the bait, because it goes down in
11 their stomach, and get a large hook in their
12 stomach, or on the way up, in a vital organ.

13 Whereas with circle hooks that are
14 flat, straight, as they're called, the
15 incident of stomach gut hooking is minimal at
16 most. I think that probably 85 to 90 percent
17 of all the reports indicate that straight,
18 flat circle hooks are very effective,
19 typically ending up in the upper roof or in
20 the corner of a jaw.

21 So I'm wondering if there could be
22 a clarification there, and that should be

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1 looked at as to further reduced discards. So
2 your reports didn't indicate whether the
3 Federal Register indicated, the CFR indicated
4 they had to use just circle hooks, or were
5 they flat circle hooks, or could they be
6 offset circle hooks. Do you know?

7 MS. WILSON: What we showed you was
8 data that was reported in HMS logbook after
9 the circle hook implementation. So they'd be
10 following what is in the regulations in terms
11 of what is legally allowed in the pelagic
12 longline fishery, cause that's the only
13 fishery that currently is mandatory to have
14 circle hooks.

15 So in terms of percentage that were
16 offset or not, we didn't look at that. We
17 were just looking at the data in the HMS
18 logbook after August of 2004, when the circle
19 hook implementation went into place.

20 The other thing I just want to make
21 sure people understand is we're not comparing
22 absolute numbers between the slide that shows

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1 discards of sandbars from 01 to 05, and then
2 the one just showing the circle hooks, because
3 the time series of data is different there.
4 So that wouldn't be the appropriate thing to
5 compare. We're looking at the interactions,
6 where those interactions occurred, so--and
7 again, these are all just illustrative of the
8 types of data we'd be looking at. We're not
9 pinpointing any spots at this point. We just
10 wanted to give you an idea of the types of
11 data we'd be considering in amendment two.

12 MR. AUGUSTINE: Well, that wasn't a
13 negative comment. That was just an
14 observation. But it seems to me that all of
15 the studies that have been conducted, both in
16 recreational fishing and--in recreational
17 fishing, in particular, with circle hooks,
18 every one of them has identified the fact that
19 if it's a flat circle hook, it's extremely
20 effective, and that the incident of gut
21 hooked, or in vital organs, such as the heart,
22 larynx, and so on, is incidental, very

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1 incidental, and it just seems to me that we,
2 as an advisory body, should ask you, as a
3 governing body, to look at the results of
4 those surveys to see if we could not further
5 reduce the discard rate. That's one.

6 Question two was it appears we're
7 putting an awful lot of effort into monitoring
8 vessels and captains. They're the ones who
9 are doing the actual work of catching these
10 fish.

11 But it seems to me there's a
12 disconnect when you get to they selling that
13 product to a licensed dealer. It would just
14 seem to me that in view of the fact you're
15 asking them to call in when they "hail in,
16 hail out," why not have them go one step
17 further and report the dealer by name or by
18 permit number that they sold to.

19 Because it would seem to me that
20 your database or your VMS through the tracking
21 system could log that in and then you would
22 have a direct lead to the dealer and the

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1 dealer would know then that, yes, indeed, your
2 permit shows that you purchased sharks from
3 vessel XYZ, and therefore the tracking would
4 be direct.

5 In listening to yesterday's
6 conversation and how we got in this dilemma,
7 where we've been overfished and overfishing is
8 occurring, and we've caught so many more
9 pounds of fish than we should have, it just
10 seems to me there's a weak link in the whole
11 system and it points directly towards the
12 inability of gathering data from the dealers
13 who, one, are either late reporting, or not
14 reporting at all, and would almost seem most
15 appropriate that we try to close that big gap
16 right now, to bring it together so it gives
17 NMFS a direct line as to where the major
18 problem exists.

19 And I understand there are other
20 problems with numbers of hooks and that sort
21 of time. But if we could address those two, I
22 think it would be a step in the right

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1 direction. Thank you.

2 MR. HUDSON: Rusty Hudson, Directed
3 Shark. Good morning, Jackie. Could you flip
4 back to the slide that has the 2001, 2005
5 sandbar discards. Down off of the coast of
6 Florida there, I thought pelagic long-lining
7 was closed as of March of 2001.

8 What are those discards, sandbar
9 from pelagic longline?

10 MS. WILSON: We're just plotting
11 what was reporting in the HMS logbook. So
12 these are discards from pelagic longline gear.

13 MR. HUDSON: Okay. My next
14 question has to do with your VMS. It's a two-
15 part question. Right now, your click is on
16 one hour on the timing of the VMS back to the
17 station, and you want to go to either 15
18 minutes or 30 minutes. Does that increase the
19 cost, at all, to the industry?

20 MS. WILSON: It could; yes.

21 MR. HUDSON: And is the other part
22 of that the visual indicator? Will that cost

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1 extra money also, or is that something that
2 you're asking the producers of the units to
3 make as part of the unit, period?

4 MS. WILSON: If the existing unit
5 doesn't have it, then that would mean you'd
6 need a new unit. To that point, though, there
7 may be options for money. If there are new
8 VMS requirements, there's now some additional
9 money for VMS, and that may be something that
10 we could tap into, should we decide to move
11 forward with, you know, an option such as
12 that, that would require a new unit. So there
13 may be options to defray costs there.

14 MR. HUDSON: Okay. I appreciate
15 that. Going back to the sandbar for one final
16 thought, I saw your post-release on post
17 circle hooks, and stuff like that, from the
18 PLL on sandbars and stuff. Do you have like a
19 date frequency, because in my history of
20 almost 25 years of dealing with sandbars,
21 traditionally, off the coast of Florida we'll
22 get a certain amount of sandbars in March,

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1 April, May, that the guys used to let the west
2 end of the swordfish gear come in and catch
3 the big sandbars and duskys that'd be in that
4 1500 fathoms at that time, and then we know by
5 the time you get up into March and April, and
6 stuff like that, they're moving right on up
7 the coast.

8 Are some of these discards related
9 to that particular migration movement at that
10 time, in those depths?

11 MS. WILSON: We wouldn't be able to
12 tell from these particular maps. However, as
13 I mentioned before, we do want to try to pull
14 out any sort of seasonal components, and if
15 certain animals are in certain places during
16 certain times, and whether, you know, what
17 time periods would be the most appropriate to
18 consider for a closure, so we would look at
19 this--I mean, this is just putting all the
20 data, year-round, in one map. But we would
21 like to try to kind a tease that out and look
22 at things on a seasonal basis.

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1 MR. HEMILRIGHT: Dewey Hemilright.

2 Could you put back up there the slide of the
3 individual dusky sharks caught in the bottom
4 longline observer program, '94 through 2003.
5 Yeah. And that's based on the observer
6 program. You don't see your charts going on
7 up to New York or New Jersey or anywhere else
8 like that.

9 Is there no observer program being
10 initiated above Virginia?

11 MS. WILSON: This figure was
12 actually taken from the dusky assessment, and
13 so we will look at any points that we have,
14 you know, along the entire Eastern seaboard
15 and the Gulf of Mexico. So we took this
16 figure, as it's shown here, from the dusky
17 shark assessment itself.

18 In terms of the observer program,
19 Virginia north--is that what the second part
20 of the question was?

21 MR. HEMILRIGHT: Yes.

22 MS. WILSON: Can anybody speak to

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1 that?

2 MS. SCHULZE-HAUGEN: I don't think
3 there has been a lot of coverage, based on not
4 a lot of effort, but, you know, whatever data
5 we have, we'll be looking at.

6 MR. HEMILRIGHT: Next question.
7 Can you slip to the next slide, it says "Total
8 weight of dusky sharks reported in the coastal
9 logbooks." When you look at this here--and
10 help me out a little bit--they're above
11 Virginia, North Carolina-Virginia line, you
12 see a block there, and I guess that's
13 associated with a large catch of dusky sharks,
14 and above. So why didn't your observer
15 program, based on the logbooks here, cause you
16 always say, when you send us out the letter
17 for the observance, that it's based on your
18 logbooks, your previous history of landings.

19 Here, you see all the--a lotta--it
20 appears to be a fair number of poundage from
21 Virginia north. And then you also look on the
22 west coast of Florida, and if you got the

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1 number right, with the poundage at the bottom,
2 if you total weight, it looks like there's a
3 lotta duskys being caught on the west coast of
4 Florida but the only place you got closures,
5 in North Carolina.

6 MS. WILSON: I'm sorry. What's
7 your question in that?

8 MR. HEMILRIGHT: My question is why
9 is there no observer program being coordinated
10 from Virginia north, that would incorporate,
11 show these dusky catches, and on the west
12 coast of Florida it appears there's a lotta
13 poundage, appears to be on your chart a lotta
14 poundage of duskys caught, yet there's no
15 closures, if duskys are being prohibited. Not
16 that I'm asking for more closures, cause we're
17 just about finished. You ain't got very much
18 coverage anywhere. It's like it's just
19 spotted in different places, looking at your
20 own work here.

21 MS. WILSON: Well, Dewey, what I
22 can tell you is that the information is

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1 reviewed for selection, there's random
2 selection for statistical purposes, and we
3 have the information that we have and that's
4 what we'll be looking at.

5 You know, if there's effort, and
6 there's permitted people, they should be in
7 the pool for selection.

8 MR. HEMILRIGHT: Well, it
9 definitely looks like there's obvious effort,
10 but somehow you all are not getting it. I
11 mean, you're showing one part of the equation
12 and not the rest of it.

13 MS. WILSON: Well, Dewey, just to
14 go back to the previous slide, I don't think
15 this is the entire representation of the
16 bottom longline coverage. This is a figure
17 that was taken from the assessment that is
18 focused on this area.

19 So please don't think this is the
20 sum total of our information. It's an
21 illustration.

22 MR. HEMILRIGHT: I just don't

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1 believe, from Virginia north, there's any
2 observer coverage, period, whether it's this
3 set or the other set, or whatever other set
4 you pull outta your pocket. It's just not
5 there, so it's not getting a accurate picture.

6 I mean, you need to get this range of sharks
7 being observed throughout their range. I'm
8 very familiar with it, and nobody I've ever
9 seen--has there been any observed trips above-
10 -from Virginia north? I don't understand why,
11 when you get over there to Louisiana and west,
12 even though you're showing duskys here,
13 there's no observer coverage over there.

14 And, you know, if you're going to
15 put us outta business, and want an accurate
16 picture, you need to get the full scope of
17 what should be done.

18 Going to the monitoring and
19 compliance part, about the vessel monitoring
20 system, it says it's mandatory on number
21 three. Mandatory for VHF for all gillnet and
22 bottom longline vessels that possess a

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1 directed shark fishing permit in the vicinity
2 of the time area closure.

3 Why isn't it for incidental shark
4 fishermen, also, to have these incidental
5 permits? What's the difference between a
6 directed--how does a species know whether the
7 guy's got a directed permit or incidental
8 permit?

9 MS. WILSON: I don't think the
10 sharks know, but the difference is that the
11 gear is targeted for sharks, whereas an
12 incidental permit, by its nature, is for
13 someone that is using a different gear, that
14 is not targeting sharks, but has some
15 incidental catches. That permit allows them
16 to bring back a limited number. So they're
17 not all discards.

18 And just one quick point, returning
19 to this. Carol reminded us that at this
20 point, from '94 to 2003, observer coverage for
21 all but one of those years was voluntary. It
22 became mandatory in 2002.

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1 So if there was no willing vessel
2 that would take an observer, observer didn't
3 go. So just a point of information.

4 MR. HEMILRIGHT: One last thing.
5 On monitoring and compliance, I would go with
6 the "no action." If National Marine Fisheries
7 can't monitor our fisheries biweekly, I have
8 little doubt that they can manage it in ten
9 days, five days, or 24 hours. It's not the
10 problem. The dealers aren't reporting
11 biweekly. I don't know what you could do to
12 get them to report in ten days, five days, or
13 24 hours, cause it doesn't appear like you all
14 can even handle that. So I would go with the
15 "no action" and maybe just get your phone,
16 piece a paper and a pan, a calculator, call up
17 your dealers, cause I don't think it would
18 increase any better with ten days, five days
19 or 24 hours.

20 MR. NEHLS: Don Nehls. On this
21 stuff, in the report it says on the
22 probeagles, there's 90 tons per year, is what

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1 the quota is on that stuff?

2 MS. WILSON: Ninety-two.

3 MR. NEHLS: Okay. Ninety-two tons.

4 But then it says in the pelagic longline gear
5 stuff, that they took .5 to 2.6 tons. That
6 was the landed number.

7 Is there any number on, if you
8 calculate it, in the dead discard, to see how
9 close we are to that 90 ton number?

10 MS. WILSON: I think we can do
11 that. I don't think we have done that.

12 DR. HUETER: Bob Hueter. Jackie,
13 could you go back to that slide that Dewey was
14 talking about, the dusky total weight in the
15 coastal fisheries logbook.

16 First of all, what is the coastal
17 fisheries logbook? What is that?

18 MS. WILSON: It's also known as
19 snapper/grouper logbook, where a lotta the
20 bottom longline fisheries report their
21 landings. So we have the HMS logbook, which a
22 lot of the pelagic longline reports to. The

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1 coastal fisheries covers like snapper/grouper,
2 and those, as well as shark bottom longline.

3 DR. HUETER: Okay. Well, I'm
4 concerned about the west coast of Florida,
5 just like Dewey, but from kind of a different
6 perspective. The window, the timeframe for
7 this is '91 to 2003, which is a period of
8 pretty dramatic change in a lotta these
9 stocks.

10 Do you have any sense of whether
11 the data in the Gulf of Mexico, that northeast
12 part of the Gulf, is more skewed toward the
13 early part, cause I'll tell you, we have not
14 seen a dusky shark off of Sarasota, in all of
15 our collecting, since 1989.

8A 16 So I really question the validity
17 of those data and I'm wondering if there's a
18 species ID problem that's coming from the
19 snapper/grouper fishery.

20 MS. WILSON: Again, this figure
21 here was taken from the dusky assessment and
22 Ri Cortez [ph] is one of the ones that put

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1 together this data. So I have to talk to him,
2 to know whether or not the data was skewed
3 more towards 1991 versus 2003. This is the
4 self-reported data. So if there are shark
5 identification problems, that could be taking
6 place.

7 But, again, this is really to
8 illustrate the types of data we'd be
9 considering, and if we take another look in
10 this type of data, and we're finding, you
11 know, large catches or interactions with
12 prohibited species in certain areas, you know,
13 those are the types of areas we might consider
14 for new time area closure.

15 So, you know, we've been using this
16 type of information to consider new time area
17 closures, is the main point of this.

18 MR. HUDSON: Rusty Hudson, Directed
19 Shark. Yesterday, South Atlantic Council sent
20 me a thing indicating that they were going to
21 go ahead with eight marine protected areas. I
22 thought I heard you say eleven. But anyway,

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1 that's what their plan is.

2 Now Directed Shark did submit a
3 comment on the MPA, amendment fourteen, and
4 opposed the idea of banning shark long-lining
5 in those regions, primarily because it was
6 based on the observer program. As you noted,
7 up until 2002, it was voluntary, so they
8 probably did not capture the essence of the
9 fishery.

10 But I do know that before you
11 started prohibiting a lot of the species like
12 dusky and bignose and stuff like that, we
13 would go out and be able to successfully
14 target sharks in those regions, and they were
15 usually always adult duskys, adult bignose,
16 and adult sandbar. So that was one of the
17 reasons we opposed it, because of things like
18 the state closures, since '92, that have kept
19 us from fishing near shore on the blacktip on
20 the East Coast, so we have to, you know,
21 pretty much go offshore, catch sandbar, or, if
22 we had before the prohibition in '99 and 2000,

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1 be able to go and get duskys and bignose.

2 But it's a type a thing that we
3 just don't think you have enough data, but
4 they're wanting to go ahead with these MPAs,
5 and it's probably we're just going to be--our
6 voice will be lost in the wind or the action.

7 That's why we're opposing it, cause we just
8 don't think the data properly reflects how
9 important that area used to be to us, and
10 could still be if you would wind up
11 recognizing that bignose, for instance, is
12 virtually a virgin population and could be
13 opened up to certain selective fishing.

14 MS. WILSON: Rusty, I just wanted
15 to clarify. Eleven MPAs were in their
16 proposed rule. So that's why we were
17 considering the eleven. We were asked by the
18 South Atlantic Council to consider those.

19 So that's what we're considering
20 now, and we'll be analyzing, and looking at.
21 No decision is made at this point. So it's
22 just something we're going to consider an

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1 amendment to.

2 MR. HUDSON: That's why I thought
3 I'd let you know about the news release
4 yesterday.

5 MR. : [off-mike]

6 MR. : I think this is for
7 Margo. At two of the public hearings I
8 attended, Gloucester and Fort Pierce, there
9 were strong comments made, that as you move
10 forward with the predraft, there should be the
11 buyout options. The options for a buyout
12 should be included in there, and I don't see
13 anything in here. Can you tell us where the
14 buyout comes into this whole matter. I mean,
15 you know, the technical points that Rusty
16 repeatedly makes, and Dewey, I don't hear them
17 being addressed anywhere. So it's clear
18 you're just rushing forward with this.

19 But who's dealing with the buyout?

20 MS. SCHULZE-HAUGEN: Well, buyouts
21 are possible via two mechanisms, appropriation
22 or an industry-funded proposal coming through.

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1 Now there was the shark business plan that
2 came through, that had mixed suggestions.
3 There were a fair amount of issues raised in
4 that plan and--oh, sorry--there were a number
5 of, I guess cautions, that a buyout may not be
6 supported and may not work. So I think we're
7 continuing to look at that.

8 As far as specific alternatives for
9 us to propose, we don't have them in. You're
10 right. They're not in the plan right here.
11 And I guess one other thing to point out is
12 that there were Magnuson-Stevens
13 reauthorization provisions on some of these
14 and so we'll need to be looking at those as we
15 move forward.

16 It doesn't mean that that's not
17 something we can continue but we're going to
18 have to do it in the ways that are afforded to
19 us.

20 I have not heard anyone coming
21 forward with appropriations, and as I
22 mentioned, the business plan that came is was

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1 not, in my read anyway, and if others want to
2 comment, that's fine, an overwhelming
3 endorsement that the industry supported that.

4 So that's kind of where we are.

5 MR. : To follow up, it would be
6 helpful, I think, if HMS would kind of
7 summarize for everybody the options that have
8 been put on the table, the things that have
9 been talked about, and how some of those
10 options, how one is better than another, or
11 potentially better than another, how they
12 address the issues. I mean, we've got a lot
13 more public hearings, once you go to the draft
14 document. You've got a number of public
15 hearings that are coming up. You know, the
16 gravity of the situation is going to continue
17 to be before the public.

18 It's going to continue to be before
19 Congress. It's going to continue to be before
20 foundations. But if it's not here in the
21 document, and I think that's the kind a
22 comments we were making in Gloucester and in

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1 Fort Pierce--it's going to be lost, no one's
2 going to pick it up. It's up to this vehicle
3 to include that in there and move it forward.

4 MS. SCHULZE-HAUGEN: Okay. Well,
5 that's something we can include.

6 MR. : [Off-mike]

7 MS. SCHULZE-HAUGEN: That would be
8 a good question for the breakout tables to
9 address.

10 MS. JOHNSON: Moving back to that
11 porbeagle thing again, I checked with a
12 person, and porbeagles are cold water sharks.

13 So I'm really thinking that the Gulf of
14 Mexico, especially, are misidentified sharks.

15 If you catch something, you don't know what
16 it is--you know--okay, it might be this. But
17 our boat hasn't seen a porbeagle up on the
18 Grand Banks for about three years.

19 So that is older information, up to
20 2005. Anyway, it's got to be
21 misidentification. Thanks.

22 MR. : [Off-mike]

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1 MR. : They do have porbeagle
2 sharks in the Gulf of Mexico.

3 MR. : Just also in regard to
4 porbeagles in warmer waters, speaking of a
5 close relative, salmon sharks, a lot of our
6 tagging studies, they're predominantly cold
7 water, but all of our tagging studies have
8 shown that they do travel down into very warm
9 waters in order--probably for pupping.

10 So it wouldn't be surprising to see
11 the same thing going on in porbeagles.

12 MR. : I've had people from NMFS
13 harvesting systems, engineering branch, on the
14 boat, and catch porbeagles.

15 MR. HEMILRIGHT: Something that Bob
16 was asking also, about the dusky shark up
17 there. You know, when there was a data
18 workshop for the duskys, if there would have
19 been a data workshop for duskys, maybe this
20 coastal logbook type stuff would a been
21 cleared up. But when the dusky was
22 a in-house, closed door assessment, there was

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1 no data workshop, they used a catch-free
2 model, so it don't matter what the heck you
3 were catching.

4 And it goes to here, look, when you
5 look at this coastal logbook, the fishermen
6 fill their logbooks out, it's like if, here
7 we're seeing it now, after we already got a
8 dusky stock assessment and this was used for
9 the stock assessment.

10 Well, there's definitely some
11 problems wrong with looking at this picture
12 and what's actually going on in reality. I
13 mean, if this is reality up there on the
14 picture, that the fishermen are portraying,
15 and up there around New York and New Jersey
16 and places, in them earlier years I fished up
17 there and I caught more duskys up there than I
18 did off North Carolina.

19 So if there would a been a data
20 workshop for the duskys, maybe the dusky
21 picture wouldn't a looked so bleak.

22 MR. : This question is probably

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1 for Rusty. Based on market demands, are the
2 size of the shark fin--I mean, apparently
3 shark sale are based on, driven by the fins.
4 At what point does a shark have no value? In
5 other words, sharks this big, nobody wants the
6 fins for 'em, and will that skew the juvenile
7 versus mature rate?

8 MR. : To answer the question as
9 simply as I can, there are some species that
10 have no fin value, but for the interest of
11 history, in the '80s, it was a meat market
12 that originated in this country, the fins were
13 of very little value until after mainland
14 China opened up southern China in '87.

15 MR. : [Off-mike]

16 MR. : Right. And today, it's
17 always subject to the specie and the yield of
18 the "noodle" or fiber out of the fin. So
19 certain species, like sandbar, dusky, great
20 hammerheads, stuff like that, bulls, lemons,
21 all of that stuff is considered top grade in
22 the Asian fin markets.

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1 Now when you get into those, they
2 then break them down according to size, and
3 the smaller they get, the sizes are broken out
4 and a smaller price is paid. So the fin
5 dealers, the bottleneck of information for the
6 last quarter century, and could tell you
7 almost to the pound, how many adults and how
8 many "juvies" of certain species that he's
9 had. But NMFS has not accessed that data, to
10 date.

11 MR. : There's no such thing as
12 a "no value" shark fin.

13 MR. : That is not true. A
14 nurse shark has no value on its fin.

15 [Several minutes of silence on tape
16 side 8A]

17 MS. : Yeah; we'll be around.

18 MR. : What is the product that
19 you want out of this? Do you want us to go
20 down through the two PowerPoint handouts and
21 address each of the various alternatives,
22 systematically, and then report back to you

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1 what the group thinks, for each one? What do
2 you envision as the product?

3 MS. SCHULZE-HAUGEN: Well, I mean
4 if that's your approach, that would work. I
5 might point you to the predraft instead of the
6 presentations, because the impacts are listed
7 there. That would give you some more
8 discussion on our current thinking. You know,
9 that could take a lot of time. I don't know
10 if you necessarily want to, but at least try
11 and focus on each of the major themes that
12 we've got, and then, again, if there are
13 things that we haven't considered, if there
14 are things that, you know, this just isn't
15 workable, don't bother moving forward with it,
16 that kind of comment.

17 [Several minutes of silence on Tape
18 8A]

19 MR. : [in progress] in what had
20 been landed in the past for sandbar sharks,
21 and not only the direct impact of that, but
22 also looking at the cumulative impacts for

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1 cuts that are happening in snapper/grouper
2 fishery, what's going on in the tilefish
3 fishery. King mackerel has recently been cut.

4 And we sort a focused on the South Atlantic
5 because that's where most of the expertise was
6 here. But also looking at those impacts for
7 the Gulf and the North Atlantic, and the
8 corresponding fishery management councils that
9 would be doing measures in those regions as
10 well.

11 So the other question was posed:
12 What would a 160 metric ton, dressed weight
13 quota, for sandbar sharks, mean for the shark
14 fishery? Essentially, I believe there was
15 consensus that the fishery would not exist
16 with this quota, sandbar being the economic
17 driver, especially the fins of the larger
18 specimens. Blacktips and other fisheries
19 would not allow this fishery to persist.

20 We got into reporting issues,
21 reporting issues in the context of something
22 germane with regards to monitoring and

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1 compliance, and any quota that we might go
2 forward with in the future. Some of the state
3 versus federal coordination issues,
4 specifically talking more about the 2006
5 season and some of the delinquent reports, and
6 does the Agency know the extent of these
7 problems that have happened in the past, and
8 if not, could they? And to what extent is
9 there nonreporting going on, and how, and
10 when, will that ever be included in the future
11 stock assessments, and also future quota
12 monitoring activities?

13 The disconnect between the logbooks
14 and the dealer reports. The fact that with
15 regards to quota monitoring and the
16 availability of logbooks in a more timely
17 manner, so that maybe the two could overlap
18 and correspond and sort of serve as checking
19 one, one and the other. Electronic reporting
20 was brought up as a possible solution to some
21 of these issues.

22 Again, with regard to data

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1 monitoring and reporting, the group felt that
2 there should be one science center staff who
3 is concerned solely with ensuring reports are
4 submitted and entered correctly, and ensuring
5 that dealers are reminded, if necessary, so
6 that they are submitting accurate reports in a
7 timely manner.

8 This question came up with regards
9 to NMFS, apportioning of the state unknown
10 landings based on the sharks that are caught
11 in federal waters, using the proportion of
12 what is observed in federal waters as a proxy
13 for what the state landings should be
14 classified as versus with regards to species
15 composition. The group felt that that was not
16 appropriate.

17 And again, sort of addressing the
18 state and federal issues. If "lat and long"
19 were added to the logbooks, to determine
20 where, exactly, the sharks were landed, this
21 might be another source of information that
22 could be used to help discern what the species

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1 composition of some of the unknown landings in
2 state waters are.

3 Okay. With regards to the
4 compliance and monitoring theme, if reporting
5 frequency is increased for VMS, who pays? and
6 another suggestion I know we had in the
7 predraft, a visual indicator of whether or not
8 the VMS was operating and functioning
9 property. That isn't necessarily appropriate
10 if the person isn't in the same room as the
11 VMS. So there could be some sort of an audio
12 indicator, if that were possible, if that
13 technology exists. That might be a little
14 more appropriate for how the fishery actually
15 operates.

16 With regards to time area closures,
17 I think there was some concern at the figure
18 that was shown from the dusky shark
19 assessment, that shows extensive landings
20 between 1991 and 2003 off the west coast of
21 Florida, and that there should be equity and
22 parity when considering time area closures,

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1 that the North Carolina time area closure
2 exists. However, I think that figure shows
3 that there were extensive landings in other
4 areas as well. So that's certainly something
5 to consider with future time area closures.

6 And again, there was a point made
7 that once the questions that were posed at the
8 outset are addressed with regard to the stock
9 assessment and the comments that were
10 submitted, that provided additional feedback
11 or analysis on that stock assessment, the
12 group may be able to consider some of the
13 status quo alternatives. Am I forgetting
14 anything?

15 MR. HEMILRIGHT: I want to add one
16 thing into it myself. Going back to the
17 landings, of using the observer program. A
18 few years ago we had here--and we'll talk
19 about the State of Virginia and unclassifieds.

20 I just learned today how it operates, that
21 you take the unclassified from a state, which
22 had two or three, 400 metric tons a month

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1 classified, they look at the observer program,
2 which we learned today, to catch 70 percent
3 sandbars, and that's how they decide what's
4 caught in that state. Well, that's not right.

5 I mean, there's no way that you can
6 say, or assume that because somebody's fishing
7 in state waters, that they're catching, even
8 though they're unknowns, that they're labeled
9 as 70 percent of what you caught in federal
10 waters in the observer program. So if you
11 take back over time, and look, as we're
12 getting better at classifying the sharks, if
13 you look up and down the East Coast, and I'll
14 go from North Carolina north, of all these
15 states that had unclassified, if they got--in
16 state waters--and they got labeled as what's
17 called under the federal observer program--I
18 mean, to me, it's showing a pretty skewed
19 picture, that everybody in state waters is
20 landing 70 percent of dusky that have been
21 unknown. I mean sandbars; sorry about that.
22 Sandbars.

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1 So I mean, that right there is--you
2 know, you take three or 400 metric tons, and
3 more than like the sharks that you're catching
4 in state waters are small sharks.

5 MS. WILSON: I was incorrect. The
6 observer data was used from the large
7 [inaudible] unclassified for sandbar,
8 directly, if that's what you're dealing with,
9 when you're talking about sandbars. The
10 sandbar is apportioned based on the general
11 canvas data, which is state landings. So I
12 was wrong. I was just doublechecking it, and
13 I'm clarifying, now, that for the apportioning
14 of--for the numbers of sandbars that were used
15 in these sandbar assessments, since that's the
16 species we're talking about, the apportioning
17 of unclassified sharks, or sandbars, is as
18 follows. Let me find the right page.

19 "Commercial landings were obtained
20 by multiplying the total U.S. landings by
21 proportion of sandbar landings corresponding
22 to the area obtained from the general canvass

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1 data." So that's all reported data, all state
2 landings.

3 MR. HEMILRIGHT: So you're telling
4 me that--

5 MS. WILSON: It's not the federal,
6 it's not the observer program. That was my
7 fault. See, we use the observer program for
8 the apportioning of the large coastals within
9 the large coastal complex assessment. We use
10 a different methodology for the specie-
11 specific assessment because we had different
12 data available.

13 MR. HEMILRIGHT: How do you all
14 decide what's called an unknown, just say
15 Virginia? How do you all decide that?

16 MS. WILSON: It was apportioned
17 according to the percentage, for when we were
18 trying to pull out the number of sandbar
19 sharks. The number of sandbar sharks that
20 were caught in the canvass data, the
21 percentage is what was used. So it's not the
22 observer data. It's the canvass data. The

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1 general canvass data is the data that comes in
2 from the states.

3 MR. HEMILRIGHT: From state board
4 of fishing?

5 MS. WILSON: From state dealers.
6 The canvass data is all the data that comes in
7 from the states. So it would include state
8 water fisheries. It would be both federal and
9 state. That's what's in the canvass data, is
10 all sharks landed in the states are reported
11 in the canvass data. That was my fault. I
12 was confusing--I had to go back and
13 doublecheck. We used different methodology
14 for the LCS complex versus the specie-specific
15 assessments.

16 MR. HEMILRIGHT: Does that, Julie,
17 actually show in Virginia as a canvass system?

18 MS. WILSON: We have the state data
19 available.

20 MR. HEMILRIGHT: That's what I'm
21 saying, cause once you go from Virginia north,
22 the canvass system breaks down with regards to

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1 specie-specific. You have a lot of--

2 MS. WILSON: Canvass doesn't go
3 much farther than Virginia. There's a
4 Northeast database which is separate.

5 MR. HEMILRIGHT: Yes. But what I'm
6 trying to say is from Virginia, north, they
7 don't get--

8 [Microphone adjustment is made]

9 MR. HEMILRIGHT: How is it from
10 Virginia, north--I mean, Maryland, north, how
11 is it broke down? The same way as general--or
12 how do you unclassify--how do you classify
13 unknowns from Maryland--I guess, yeah,
14 Maryland, north?

15 MS. WILSON: So how are the
16 unclassifieds dealt with from the Northeast
17 canvass data?

18 MR. HEMILRIGHT: Yes.

19 MS. WILSON: I'd have to
20 doublecheck. I didn't see that specifically
21 in here. So I'm not sure how they were
22 incorporated, the unclassifieds for them. I

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1 know in North Carolina, there's a special
2 issue with dogfish and that's taken into
3 account as well.

4 MR. : [Off-mike remark]

5 MS. WILSON: Yes; they do.

6 MR. : [Off-mike remark]

7 MS. WILSON: I'd have to check how
8 specifically Northeast is. It looks like they
9 would be given, the unclassifieds would have
10 been given the same treatment from, using the
11 proportions from the general canvass data for
12 the specie-specific acquisition of the
13 numbers. The way they were done for the large
14 coastal complex is different.

15 So we have to talk about which
16 assessment we're discussing, to make sure I'm
17 giving you the right information, cause
18 there's apportioning of large coastals,
19 there's apportioning of unclassified large
20 coastals into sandbar, into prohibited
21 species, and into the blacktips, and blacktips
22 has another level because it was Gulf versus

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1 Atlantic.

2 So there are different
3 methodologies that were discussed at the data
4 workshop to come up with how we came up with
5 these numbers. So I can check and answer
6 specifically which ones you want to know, and
7 I will doublecheck and make sure I give you
8 the right information. But it would appear
9 that for the determination of the numbers of
10 sandbars that were used in the catch estimates
11 for the sandbar assessment, which I believe is
12 what you're concerned with, used the canvass
13 data proportions.

14 MR. HEMILRIGHT: Okay.

15 MR. : I'd like to keep this
16 moving. We're heading for a 12:30 lunch
17 departure. So I'd like to ask Bob to give a
18 review of his group's work.

19 DR. HUETER [?]: Okay. I first
20 want to emphasize that the points that are
21 made up here are not necessarily a majority or
22 a consensus view. These are various ideas

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1 that came out. We tried to capture the range
2 of ideas.

3 We first talked about things that
4 are missing before we got to the various
5 alternatives in the amendment. Missing items
6 that were brought up include the buyback
7 program, which I'll come back to; such things
8 as a lack of the framework for the finetooth
9 shark getting lost in the details; deepwater
10 sharks not addressed; and three different
11 kinds of shark species groups that are not
12 addressed as being prohibited or not--the
13 oceanic whitetip silky and three hammerheads,
14 one of which has just been put on IUCN's red
15 list as endangered, the scalloped hammerhead.

16 So there are these species in the
17 complex that are falling into the cracks as we
18 focus on the major components of the fishery.

19 We decided to take sort of a "big
20 picture" view first, and kind a take stock of
21 what's happening in this fishery before we
22 started to micromanage it, and we came out

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1 with a couple of major concerns.

2 One is what is the value of this
3 fishery at this point? We're dealing, we have
4 people here with tuna fishery, billfish,
5 swordfish, and so on. These are very high
6 value fisheries. What is the value of the
7 shark fishery? We've got to keep that in
8 perspective as to how much we expend in
9 management and other costs at this point. And
10 time. And the number we got from NMFS was
11 that at this time, the ex-vessel value of
12 landings from this fishery is about \$7 million
13 a year. So keep that number--you know, we're
14 asking people to keep that number in mind as
15 we ponder various ways to run management, all
16 of which is going to cost a significant
17 amount.

18 A concern on whether or not even
19 with a TAC, whether the TAC that can be made
20 available is enough to run a directed fishery
21 at this point in time, and there was a concern
22 about the fact, we don't know what's happening

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1 with the blacktip shark in the Atlantic. So
2 moving forward on that is a little
3 problematic. So then we went to some of the
4 specific alternatives, and under quotas,
5 first, dealing with sandbar, again these are
6 ideas, we didn't vote on these.

7 An option of "no action" was
8 unacceptable to many of the people in our
9 group, not necessarily to industry, but
10 others. You know, we just basically said we
11 cannot do nothing. One set of ideas for a new
12 alternative for the direction of this fishery
13 is to basically make this a zero quota for the
14 sandbar at this point in time, because it's
15 going to take 70 years to build back, with any
16 quota. Zero directed fishery quota, come up
17 with a number to allow for incidental bycatch
18 of sandbar, and then marry this very tightly,
19 and immediately, with a buyback program for
20 the sandbar component.

21 I mean, the overall feeling--again,
22 this is not a majority of you, necessarily--

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1 but feeling from this idea is that the sandbar
2 fishery has kind of "run out of gas" at this
3 point, and it's not responding to management,
4 so we're looking at a different direction.

5 On the blacktip, some people felt
6 no action was appropriate because this is a
7 relatively healthy stock, at this point, at
8 least in the Gulf, but, again, the concerns
9 about the Atlantic, even to an idea of no
10 fishing at all in the Atlantic, until the
11 status is better known with new stock
12 assessments. And kind of the overall outcome
13 of some of these ideas is to go ahead and take
14 a big step of redesigning this fishery to
15 target Gulf blacktips at this point in time.

16 Now moving on to porbeagles, there
17 were concerns about the quality of data for
18 porbeagles in making any management decisions
19 in terms of closed areas, so it's been
20 suggested that the database be improved in
21 terms of tracking not only total landings, but
22 discards, and when we have a better handle on

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1 that mortality, then set quotas based on that.

2 We didn't really address
3 recreational but I just suggested one idea.
4 Something that's happening is kill tournaments
5 are coming back, it's not a big take, but it's
6 big in terms of public perception. I would
7 like to see NMFS personally prohibit shark
8 kill tournaments at this point in time when we
9 have stocks in such bad shape.

10 And let's see. Time area closures.

11 That's it; it's the last page. The view's
12 different under time area closures. In terms
13 of commercial closures, it was suggested that
14 none be pondered at this time for the pelagic
15 longline fleet in regard to the porbeagle
16 situation, because the database it not really
17 very good there. And that kind of continued
18 on, and basically, the ideas that were coming
19 out was no increase in time area closures for
20 the commercial fleet, in general, for the
21 bottom longline and pelagic longline fleet.

22 And I'll just add my two cents. I

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1 kind of agree with this because of the fact
2 these animals are so highly migratory. These
3 are not reef fish that sit on a reef. So the
4 fact that they move around, I'm not sure how
5 effective, except for certain parts of their
6 life cycle, like pupping, how effective these
7 time area closures can be in trying to rebuild
8 these stocks.

9 Lastly, the one thing that we all
10 agreed wholeheartedly on is the problems in
11 data reporting. And the overages from 2006
12 are just completely unacceptable. And we're
13 calling for a new approach to getting better
14 time-relevant data, so that the fishery can be
15 tracked better and these overages don't occur.

16 One idea was that HMS here, in
17 Silver Spring, actually become a place to
18 receive those data, at least in a form that
19 they can take action on the fishery, if action
20 is needed, rather than the science center.

21 There's a call for tracking of the
22 data, not so much changes in dealer reporting,

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1 but better tracking and reporting by NMFS
2 itself. So the data doesn't sit somewhere,
3 for weeks at a time, and then we realize that,
4 you know, we've gone way over.

5 And then a suggestion of better
6 implementation of electronic logbooks and VMS,
7 just to make the data more up to date. That's
8 as far as we got. This was very tough. We
9 could have done two days, I think, on this
10 entire subject. Any questions?

11 MS. : The first bullet under
12 data reporting says [inaudible]--

13 MR. : Estimate monitoring.
14 Estimate.

15 MS. : Okay.

16 MR. : It's Greg's estimate.
17 Yeah. In other words, the idea here is that
18 maybe a system could be designed where HMS
19 doesn't sit and wait for the specific data
20 from the science center, you know, that's
21 looked at, but the HMS has some way of at
22 least knowing, in an estimated--estimating

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1 where we are in the season with the quota, so
2 they can take action, rather than waiting for
3 the data to come in so late, and then find
4 that we've gone over the quota by two times.

5 is there anything from our group
6 that anybody--anything that I didn't represent
7 right, or any views that weren't brought out?

8 MR. : [Off-mike remark]

9 MR. HINMAN [?]: Okay. Our group
10 decided, instead of trying to go through the
11 alternatives, and see if we could get a
12 consensus on which ones we supported or
13 didn't, we focused on what we thought was
14 missing, whether that was to add options that
15 were not there or to modify or clarify options
16 that were there.

17 So we support the options, as a
18 group, including them in the public hearing
19 document, and getting comment on them, but
20 that doesn't necessarily mean that we agree
21 that we support these as preferred options.
22 We just want them included for comment and

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1 analysis.

2 And the one we started with was a
3 buyback, slash, buyout, and the reason for
4 this is that there's a feeling that, at least
5 if the current assessments are correct, and
6 the projections for rebuilding times are
7 correct, and remain correct, that the LCS
8 resource may never support anything but a very
9 limited, and very heavily regulated and
10 costly, costly-to-regulate fishery for the
11 next century or two. So that you can look at
12 this from two ways. You can have a buyback
13 that would be designed--

14 [Start Tape No. 9A]

15 MR. HINMAN [?]: [in progress] the
16 other extreme, and have a buyout, close the
17 fishery, and which is an option of the plan,
18 and there's obviously a range of opinions on
19 that. But there's, I think, general support,
20 though, that some kind of economic program
21 tied to the management option was something
22 that should be considered. And the

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1 alternatives that need to be in there. We
2 need to consider funding alternatives, a
3 buyback is something that could be funded
4 through the industry, or through congressional
5 appropriations. Obviously, a buyout is
6 something that would have to be funded through
7 appropriations [inaudible].

8 There are a number of ways that
9 need to be considered to reduce capacity, if
10 that's the way to go in the fishery. What
11 kind of percent reduction are we looking at,
12 if it's getting rid of inactive permits, down
13 to the active ones? Is there some fleet size
14 capacity that we would choose as a target
15 level that is manageable and sustainable?
16 What would the fishery look like?

17 Would be a limited fleet, or it
18 could be bycatch-only fishery. It could be an
19 experimental fishery that allowed a certain
20 number of boats to participate in the fishery
21 while having very specific research-gathering
22 objectives, observers, or any combination of

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1 the above. Or it could be [inaudible].

2 We talked a little bit about the
3 [inaudible] controls and we thought that the
4 option requiring circle hooks for both
5 commercial and shark fisheries needed to be
6 clarified, that that should say non-offset
7 circle hooks. Those are the ones that have a
8 value in reducing [inaudible] mortality.

9 We looked at both the recreational
10 and commercial measures and felt that each one
11 probably needed some additions to it. The
12 recreational just says that they can be
13 required, recreational fishing for the shark.

14 We felt that there's probably a pretty good
15 chance that that's a stand-alone option, that
16 failed for reasons of enforcement problems,
17 opposition to the fishery or people suggesting
18 that there aren't studies to support that as a
19 requirement.

20 So that there be an additional
21 option there of promoting voluntary use of
22 circle hooks, promoting research into their

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1 value for the survival of sharks.

2 And also likewise the bottom
3 longline fishery, we felt that NMFS--and this
4 maybe not as an option of the plan but it's
5 something that we think NMFS should do, is to
6 go back and review the observer data that
7 there is over the last ten, and more years,
8 fishermen voluntarily using circle hooks. You
9 can look at the data set there and try and
10 determine if there is a--this gets [inaudible]
11 gear restrictions. But to look at that, to
12 see if there is a certain maximum set length
13 and/or soak time that corresponds with
14 minimizing discard mortality. The
15 requirements in the options right now is a
16 five mile limit and [inaudible] limit, and
17 there may be, through looking at the data sets
18 that we sort of get out of that that
19 [inaudible] really is based on something. You
20 probably get suggestions of longer [inaudible]
21 but really needs to be based on something
22 that's shown that it can [inaudible].

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1 Recharacaterizing, the fishery
2 suggested that we add an option, I guess it
3 would be 2A on the list, which would be that
4 there be one region and three seasons. That
5 should be put out for public comment and
6 consideration.

7 Under recreational quotas, we
8 wanted to add an option that NMFS hold shark
9 identification workshops for charter and
10 tender boat operators, improve the
11 identification and the reporting, and
12 everything that comes from that data, from the
13 recreational fishery. And I may have
14 editorialized on some of these things, and for
15 the reason that we were also discussing a
16 couple of other things, just as we of course
17 wrap up., we really haven't crystallized. I'm
18 going to let other members of our group add
19 anything that they thought [inaudible] out an
20 that includes people at this table, and Pat
21 Augustine and Rusty Hudson may want to add on
22 that.

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1 MR. HUDSON: Rusty Hudson with
2 Directed Shark. Basically, as a group, as you
3 said, with the first page, it started out with
4 a premise that the science was adequate and
5 that it justified going ahead and doing these
6 massive reductions to the fleet, that then
7 leads to a buyout, buyback, cause nobody can
8 fish.

9 We had determined that one of the
10 better ways was an economic disaster
11 declaration caused by the variety of different
12 situations that could then possibly generate
13 funding to buy back some of the permits, based
14 on some analysis that would be provided at a
15 later date.

16 We didn't want to get into the
17 details of that at this time, but the idea of
18 a buyback/buyout, everything has been
19 suggested, from NGOs helping out, you know, to
20 purchase and reduce the limited access permits
21 down a tolerable level. But just to give you
22 an idea of what we're looking at.

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1 If we go down to a 1.2 million
2 pound quota by eliminating the sandbar, if you
3 use a 4000 pound trip limit, 30 boats, that's
4 catching a 4000 pound trip limit per week,
5 then that's 120,000 pounds. That's ten weeks
6 of fishing in an entire year for 30 boats, and
7 there's nothing left for bycatch allocation,
8 etcetera.

9 So that just gives you an idea of
10 what the numbers mean, by having got to this
11 point. If the science is wrong, and this is
12 an editorialized opinion of myself, this is
13 what I call an old-fashioned lynching, and
14 you've run us out of the business, and that's
15 the take-home message.

16 So you have an opportunity to be
17 able to either work with us, clean up the
18 science, or else buyout or starveout. These
19 are the options that are on the table for us,
20 and I hate to put it in such emotional terms,
21 but it's reality for us.

22 MR. : A very good job, Ken. I

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1 think you represented everything that we
2 discussed around the table.

3 MR. : Just one final comment.

4 I agree with Rusty, that I think that's where
5 a lot of--well, speaking for myself, rather
6 than seeing a starveout, we'd like to see a
7 buyout, or if a buyback that can really bring
8 this down into a manageable fishery, that is
9 actually sustainable, and that's something
10 that really needs to be looked at, and if that
11 can't be done, then certainly a buyout rather
12 than a starveout. I don't think we're doing
13 anybody any service that way.

14 MR. : As a final comment, I
15 agree with that, and, you know, basically, we
16 feel that it's sustainable under the current
17 quota, and yet it seems that there's a
18 determination, based on this science that we
19 don't agree with, that everything's a crisis.

20 So this is where we're at loggerheads with
21 each other.

22 MR. : [inaudible] group, say

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1 that a lot of us feel that there has to be
2 some real concrete linkage between the
3 amendment as it moves forward and the buyback
4 program, such that they're not separable.
5 They'd have to go forward together and the
6 timing has to be right, via commitment from
7 the Agency or Congress, that that's how it's
8 going to work.

9 MR. : I just want to ask: What
10 was it about the circle hook or the hooks you
11 all were saying you wanted to look at, or
12 something like that? I mean, right now, for a
13 [inaudible] we use a straight 16, a straight
14 18, or offset 18, and for shark fishing I use
15 a long shank 14 J-hook, and most a the time, I
16 mean 99 percent of the time just hook in the
17 corner of the mouth, and, you know, you can
18 pop it out or something.

19 To me, with a circle hook in the
20 corner of the mouth, with a bigger hook it's a
21 little bit harder. You'd have to cut it out
22 or something like that, sometimes. What I'm

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1 saying, I was just trying to get a clarity of
2 what you all were saying about the circle
3 hook. I wasn't paying much attention.

4 MR. : I'm not sure that we have
5 the answer but I know we felt that just saying
6 circle hooks or just requiring circle hooks
7 doesn't really do anything because there are
8 different kinds of circle hooks. There are
9 offset, non-offset. There are different
10 degrees. So as a group, we seem to--I think
11 everybody at our table felt that a non-offset
12 circle hook was of the most value, but I think
13 our main point is that we want this rule, if
14 it's going to go forward for public comment,
15 analysis, to look at what kind of circle hooks
16 we're talking about, and why we'd be requiring
17 them, which would be, you know, to reduce gut
18 hooking, throat hooking, post-release
19 mortality, and that's the kind of hook we want
20 in the requirement, not just circle hooks,
21 because everybody knows there are a whole
22 bunch of different kinds, and some do a lot of

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1 good. Some don't do any good at all.

2 So that's really what we're trying
3 to get at.

4 MR. : I mean, most time, you
5 know, when a circle hook, there ain't too many
6 that's gut hook, or sharks, or none of them
7 down there in the gut or nothing like that,
8 it's all around the mouth, and I mean, if you
9 have pelagic longline gear on your boat, you
10 have to have just a 16 or the eighteen.

11 You know, then with bottom longline
12 you still can use J-hooks. There's, you know,
13 a discrepancy. If you have just pelagic
14 longline gear, you can't have those J-hooks,
15 if you're fishing for tuna and stuff, it's
16 just straight that. But I mean, I think--you
17 know, you see on TV, down there in Florida,
18 you're watching these guys these sharks, and
19 they're I think catching them on circle hooks,
20 then they take the gaff and stick 'em in the
21 mouth, that says it doesn't hurt 'em as
22 they're ripping this stuff out. You know, I

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1 find that hard to believe.

2 But I think they're using circle
3 hooks. Maybe we could find out what size
4 they're using.

5 MS. : Regarding the flat circle
6 hooks and the offset ones, all I can address
7 is the NED, and we used pretty much all
8 offset, and the vast majority of all of the
9 catch there was caught in the side of the
10 mouth. So I'm aware that there's some
11 information out there on flat versus circle.
12 I can just tell you what the e of the NED was.

13 MR. : Yeah, this is something
14 that obviously has to be--well, I mean, I
15 think just the fact that there's so much
16 discussion about what kind of circle hooks we
17 should be talking about, I think underscores
18 the fact that just saying circle hooks are
19 required is not enough.

20 But it may be that--you know, we're
21 talking about bottom longlines here, not
22 pelagic longlines. We're talking about, you

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1 know, large coastal sharks, primarily, not
2 pelagic sharks. So I don't know if there's a
3 difference. I don't know the studies. But
4 obviously NMFS needs to clarify what they're
5 talking about, and why a certain kind of
6 circle hook should be required. What it's
7 going to accomplish.

8 MR. : Yes. Well, not on the
9 circle hooks. I was asked to get a little bit
10 deeper on the buyback/buyout scenario. NMFS
11 has yet to conduct a comprehensive economic
12 impact with regards to all the council and/or
13 secretarial effects that are occurring on
14 these people in the last year or the year
15 coming, and so a buyout would have to
16 potentially address the fact that they're
17 probably going to lose their boat, and so just
18 buying a permit may not be adequate.

19 You may actually have to buy the
20 entire operation because a fellow may wind up
21 losing everything anyway.

22 So you have to understand that the

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1 collective impact of grouper downsizings, and
2 mackerel, and everything else, could just
3 cumulatively, a lot of businesses can't take
4 20 and 40 percent reductions and still become,
5 you know, viable.

6 So keep that in mind, that it needs
7 to be examined, the tilefish things, all these
8 things that we've brought up, but it doesn't
9 enter into this equation, normally, unless
10 it's HMS, and, you know, so that's only
11 swordfish, tuna, shark. So you have to look
12 at that, and if you're going to wind up
13 wanting to eliminate the entire East Coast, as
14 suggested at the other table, with permits
15 and/or boats, and whatever, you're going to
16 have to give a little bit of thought, and this
17 could get fairly expensive. I see just buying
18 a permit, at somewhat, I considered a
19 reasonable value, you're already 6- or \$7
20 million.

21 If you go into having to buy the
22 boats that these people will be losing, that

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1 are worth between 50,000 and a quarter million
2 or more, then you're going to have to, you
3 know, kind a get that analysis on the table
4 and posthaste, because these people can't
5 survive much longer under the impact that has
6 occurred this year from the overages last
7 year.

8 MR. : This actually doesn't--it
9 relates to something Bob Hueter's group
10 mentioned, which I think follows on Rusty's
11 point, and, you know, in addition to that
12 analysis, I think we really need for this
13 amendment to look at the value of the large
14 coastal shark fishery, and the costs of
15 management as under the current system, cause
16 I think if we're going to be talking about
17 what's a costly buyback or buyout, we really
18 need to put that in perspective, and I think
19 the perspective is--and what's it costing us
20 right now?

21 I mean, how close are we to where
22 we're spending as much, not just in money but

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1 in people's time and time that could be spent
2 on other things that need attention? And
3 there's a lot of those. So, you know, it
4 really needs to be a full, broad analysis of
5 the whole picture. I mean, you know, you're
6 talking about, yeah, there's ramifications
7 that go into fisheries, and, likewise, there's
8 a lot more to take into account here when
9 we're considering costs of one option versus
10 another.

11 [Pause]

12 MR. HUDSON: Hi, Dr. Hogarth. This
13 is Rusty Hudson with Directed Shark. I guess
14 I have to pose a question to you with regards
15 to the analysis that the foundation did, that
16 you helped find the money for several years
17 ago, and has just been accepted this past
18 year.

19 But I have made a note in the
20 record, that in January of 2004, when we had
21 that data quality act meeting in your office
22 and stuff, with all the lawyers and stuff in

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1 attendance, your concern, before we even got
2 into the DQA stuff, was, How is the analysis
3 going? and I told you, well, we've just gone
4 into a quota reduction from the 3 million
5 pound large coastal to 2 million pound, and
6 it's looking harder and harder to apply a fee
7 against the shark fishery that'll be left
8 existing, and then that would cause a
9 shortfall of money to be able to eliminate
10 active boats. Inactive, that was a different
11 thing as far as permits, and that was only a
12 permit analysis, and you made a statement to
13 me that you would find the money.

14 So we're in a situation now that is
15 even worse, Dr. Hogarth, because with the fact
16 that NMFS allowed this overrun of the quotas
17 last year, where it should have been better
18 monitored, we are now faced with a real
19 economic disaster in 2007, and at the same
20 time, some of the considerations include
21 eliminating our fishery altogether.

22 And so I'm just saying at the same

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1 point, that with the tilefish, the snowy
2 groupers, all the other kinds of reductions,
3 the snapper things that are going on, limited
4 access privilege, whatever, all that's going
5 to come down the pike, we're not really going
6 to be around, and yet I'm just hoping that you
7 do find the money, so that these people don't
8 go "belly up," lose their boats, their houses.

9 And so I'm just hoping that you can
10 sort of make the commercial industry, by a
11 statement on your part, feel that yes, indeed,
12 we're going to look after you and not starve
13 you out, because that's the way we're going
14 right now, this year, right now. So it is an
15 emergency right now.

16 DR. HOGARTH: Rusty, I haven't
17 heard a number, but if somebody gives me a
18 number, we'll work with the budget right now.

19 We'll do what we committed to do. So who's
20 got the number? Is it Margo? Is it you? Or
21 who?

22 MR. HUDSON: Well, basically

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1 speaking, the number is in that 320 page
2 analysis, to a certain degree, as to the
3 active boats, the inactive boats. Are you
4 going to buy boats or are you going to buy
5 permits? Are you going to be able to somehow
6 keep 'em fishing with some kind of status quo,
7 or are you going to be able to reexamine the
8 science that we are feeling is contentious,
9 you know, for us, that we can't agree with it.

10 But, you know, this all goes back
11 to the science center and how everything has
12 been done. So it's really in you all's ball
13 park as to how you're going to do it, because
14 we can get a number, we can apply it based on
15 the multiple permits, and yet you know that we
16 can't get a fee out of those other fisheries,
17 without those fisheries having voted and
18 agreed.

19 And we have to get, roughly, I
20 think a majority, simple majority of this
21 industry to agree to any kind of a thing that
22 would implement a fee on them.

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1 So, in reality, just like Walter
2 Keethly's [ph] analysis said, you're going to
3 have to find private or public funding that
4 isn't keyed on or cued on that fee, on a
5 resource that's getting ready to go down to
6 one million pounds, Dr. Hogarth, at the
7 beginning of next year, and with this fact
8 that we've only got a few weeks of fishing
9 this year when traditionally, got four to six
10 months.

11 We're hurt. We're hurt as bad as
12 we can be hurt now.

13 DR. HOGARTH: Rusty, I will talk to
14 Al, then to Steve Morowski [ph]. I talked to
15 him earlier about the John Hoey [ph] data that
16 we got from North Carolina, that long-term
17 data set that I wanted to see, when I was
18 going to get into the stock assessment.

19 I talked to Steve a little bit. I
20 haven't gotten answers back to schedule all
21 this but I'll talk--set them both down when we
22 get through this week, and try to work through

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1 it. I'll be here all week and we can see if
2 we can get an answer.

3 MR. HUDSON: Okay. I have to leave
4 this afternoon, but basically speaking, back
5 to John Hoey. Three years ago, we got him all
6 of the quality sea data, and it was a
7 situation that he said he needed help, in
8 turn, money, whatever, in order to be able to
9 work with this database out of the '90s from
10 the Quality Sea Company, which was mostly a
11 sandbar fishery, and yet nothing's happened
12 with that. The Schwartz [ph] data, I thank
13 you for having to that when I asked you to,
14 and it has now become part of the small
15 coastal assessment we're currently involved
16 in. But it really doesn't make a big
17 difference on the sandbar because that was a
18 small component of their catch. They don't
19 really catch the sandbars in the southeast
20 North Carolina region as much as other species
21 like dusky, etcetera.

22 So we're just feeling like the

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1 science is putting us out, and kind a
2 unjustly so.

3 DR. HOGARTH: We could always pull
4 it up. Let me just talk to him and get a
5 schedule, and you're not here this afternoon.

6 It may be tomorrow before I can get it done
7 but we will work through it and get back to
8 you quickly.

9 MR. HUDSON: Thank you, sir.

10 MR. : The one unanimous piece
11 of advice that came from all of the groups was
12 that there ought to be a buyout program, given
13 the gravity of the situation here. But I'll
14 take it one step further. There's some of us
15 that also want to see linkage between the
16 amendment and the buyout program. But they're
17 inseparable. They can't--one can't go forward
18 with the amendment and wipe out the industry
19 without taking responsibility, financially,
20 for the damage that's going to be done.

21 Whether it's through appropriations or
22 other creative ways of finding the financing,

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1 what we're looking for is that commitment of
2 linkage.

3 DR. HOGARTH: [inaudible] with Bob
4 Speight [ph] and he gave me some information
5 on the buyout. Since then, I've met with Rick
6 March [ph] and tried to work through. You
7 know, we will support the bill. We do think
8 that it should a been--it could a been done, I
9 guess, a little better, as far as dividing it
10 up. But, right now, we're not getting any
11 feedback from the Hill as to who is going to
12 sponsor it, or anybody that will. But, you
13 know, we're not going to be the obstacle to
14 get that bill through. Okay? We won't be.

15 Nobody from the Hill seems to be
16 picking it up. Congressman Young has not, you
17 know, picked it up again. In the budget
18 climate we're dealing with now, what will be--
19 you know, the 08, and 07, they sort a put it
20 on, and operated in 06. We don't know. We
21 haven't gotten any feedback yet.

22 MR. : Dr. Hogarth, under your

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1 leadership for the last six years, we've
2 watched swordfish being rebuilt, it was well
3 in the works before you're at the position
4 you are now. The last few years, we've
5 watched our industry collapse under your
6 leadership. We've watched these closed areas.

7 We've seen here, in the last few days, of
8 giving quota to Mexico, Canada, exporting it
9 everywhere else.

10 What do you intend to do, today on,
11 to make sure that the U.S. is going to harvest
12 its swordfish quota and keep it for U.S.
13 fisherman and U.S. consumers?

14 DR. HOGARTH: Well, so far, I don't
15 think we've given any swordfish quota away to
16 be harvested yet. That we were looking at
17 making a deal with Canada, that would give our
18 fishermen some access. But I think after
19 talking to the industry, there appears not to
20 be a lot of support for that on account of
21 competition in the market.

22 We're continuing to look at ways to

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1 build back up the commercial swordfish
2 fishery. One of them was to look at the area
3 on the far side of the Gulf Stream. I keep
4 getting it wrong, whether it's east or west,
5 and they told me just say the far side of the
6 Gulf Stream, from Fort Pierce, north.

7 That is meeting with a lotta
8 opposition, I can tell you already, my e-mail
9 has been shut down by comments, and,
10 personally, I think that we felt like that was
11 a viable alternative to be looked at because
12 we were not overlapping recreational fishing,
13 and thought that there was a lot of positive
14 ways to look at that and see what it could do.

15 So we'll continue to evaluate that.

16 We are looking at the time area closures, but
17 I tell you, so far, we have not found anything
18 in time area closures, that we see, that we
19 can--on some of the others that you'd like to
20 see open, that we could open. That doesn't
21 mean the process doesn't continue.

22 We're looking at ways to give

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1 further access to the canyon, the Grand Banks,
2 but I understand that, you know, larger
3 vessels don't seem to be an alternative right
4 now on account of the cost of increase in
5 size. So I don't know that what we look at is
6 anything that is viable but we continue to
7 look, and I'm open to making something work.

8 I think the industry did pay a big
9 price for the recovery of swordfish, and I
10 think the recreational benefit is obvious,
11 that we have a problem in Florida with the way
12 the recreational fishing, some of the
13 swordfish, it's alerted Enforcement to that,
14 and I expect them to take action in that area,
15 if there's some illegal fishing taking place,
16 and we'll do everything we can to stop that
17 also.

18 But I haven't found a "silver
19 bullet." I'd like to do what we can. But the
20 experimental fishing permit, I was convinced
21 that--I haven't been unconvinced yet, that
22 that's not a viable process, to take a look at

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1 what we can do, as a small part of increasing
2 the catch of swordfish.

3 MR. CODDINGTON: Ron Coddington
4 with The Swordfish Club. We apologize for the
5 -mail backup. Need a bigger mailbox.

6 We're committed to working with
7 National Marine Fisheries and local
8 enforcement agencies on some of the issues
9 that have been blown out of proportion in the
10 swordfishing industry with illegal fishing,
11 illegal sales of fish. We've worked closely
12 with NMFS enforcement and with the local
13 Florida Wildlife Commission, to set up several
14 enforcement actions targeting the illegal
15 sales of fish, and the illegal sales of fish
16 that are happening between recreational and
17 commercial permit holders.

18 There's a brokering operation
19 that's going on. We continue to be committed
20 to work for that. But we do want to make sure
21 that you recognize that the recreational
22 fishing industry is a very high dollar

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1 industry. I don't mean to scare anybody but
2 we spend somewhere between 25 and maybe a \$100
3 a pound to catch these fish. And that's not
4 waste of the resource.

5 We can use the resource several
6 times because we also practice "tag and
7 release." At the same time, we're talking
8 about quota issues. We have the area down in
9 South Florida holding the first "Tag and
10 release" swordfish tournament. It might seem
11 like a waste to some of you but we're
12 committed to the conservation.

13 We want to applaud the efforts of
14 the National Marine Fisheries and the actions
15 they've taken with the closed zones, and we'd
16 hope that you recognize how important the
17 closed zones have been to the rebuilding of
18 the fishery, yet we also want to work closely
19 with the commercial industry to find a
20 compromise that works for both parties.

21 We certainly have become educated
22 over the last few years, and we understand the

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1 importance of the quota, and what it means to
2 us and the commercial fishing industry. Just
3 a statement I want to make. Thank you very
4 much.

5 DR. HOGARTH: Thanks. There is
6 some misinformation floating around. I think
7 you probably hit some of this. That there
8 seems to be a lot of e-mails coming to me now
9 from recreational, attacking, you know, buoy
10 lines--it's the longline fishermen, and these
11 are some lines that, you know, a fishing
12 technique that the recreational is using, but
13 some recreational think it's a commercial
14 activity and attacking the longline industry,
15 and so we need to--you know--that is a illegal
16 fishery and we need to educate.

17 And so there is a place for both,
18 and this quota we have is large enough, that
19 we should be able to increase the commercial,
20 and at the same time continue to have a
21 lucrative recreational fishery, and that's
22 what I think I would like to see all of us sit

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1 down and try to do. It'd be better for us to
2 work together. If not, we will lose the quota
3 and then everybody's going to suffer through
4 that process, both recreational and
5 commercial. So I hope we can work together
6 and find some solutions. Thanks.

7 MR. : Hey, Bill. What are your
8 thoughts on the vessel upgrade?

9 DR. HOGARTH: Well, I think that's
10 a viable alternative. What I'm hearing from
11 some is that it's, you know, the industry,
12 won't help the industry because they won't be
13 able to afford the upgrade. But I think
14 that's a choice you should make, and we should
15 give you an opportunity, personally, and the
16 industry itself, individually, could decide if
17 it wants to upgrade. But I do think it's a
18 viable alternative.

19 MR. : All right. But with that
20 stuff, it seems like in the Pacific fishery we
21 let stuff go to the largest vessel in the
22 fleet, and that's where the permits got

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1 stopped at. It seems like from reading the
2 Federal Register on the proposals, and things
3 like that that are coming, they're kind a
4 stuck on this 35 percent number.

5 If you look at the average size of
6 the permits that are there in this limited
7 access fishery there, 35 percent of a small
8 number is very hard to make a vessel that can
9 go offshore.

10 When you were in Boston, you looked
11 around at some of the seafood that's there,
12 you can see there's a large trend towards this
13 frozen product there, and if you take an
14 average of the size of the permits that we
15 have available to us, and go up 35 percent
16 with them, there isn't physically enough on
17 the boats to do a split rig or a freezer boat.

18 I think if we could go to the
19 largest vessel--I've been traveling quite a
20 bit with different groups that are looking at
21 building larger vessels. But the problem is
22 in the economics, and we're sitting with the

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1 naval architects there, is they need to get
2 into this 115, 120 foot range of vessels in
3 order to do a split hold, which will be half
4 frozen, half fresh.

5 There are two large groups, both of
6 them U.S. companies, that would be interested,
7 but the 35 percent isn't enough, physically,
8 based on the baselines or the permits that are
9 there.

10 DR. HOGARTH: We need to sit down
11 and talk on that, because I think we need to
12 work through it, cause I think fresh and
13 frozen market may be the way that swordfish
14 has to go in some of this. And so let's
15 figure out how to talk to her and talk to me.
16 We proposed 35 percent. But come back and
17 look at it. That makes it more viable.

18 MR. : Yeah. I mean, we don't--
19 there is no freezer boat in the U.S. fleet.
20 There are none, zero, zippo, and going up 35
21 percent on existing, it's not going to cut it,
22 and it's not going to work.

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1 MR. [off-mike remark]

2 MR. Bill, thank you. On this
3 issue here, you'll see that we submitted a
4 request to extend the comment period another
5 30 days. As you know, it's a very
6 controversial issue. It warrants good,
7 detailed discussion on this issue, and I think
8 it has to be--the intensity of what we spend
9 today on sharks, if we're going to spend 10
10 minutes on this thing tomorrow, and this is
11 far bigger, economically, for both industries
12 than, you know, than the shark fishery. And
13 I'm not dismissing the importance of that
14 shark fishery, but my God, this is huge,
15 especially for our boat building industry, our
16 tackle industry, the marinas, etcetera.

17 We need to spend some time on this,
18 and it warrants and extension, and probably
19 even a sub meeting, you know, if we have to do
20 it by conference call, get the players on
21 board, whatever. But it's going to require
22 some intense discussion. Thank you.

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1 DR. HOGARTH: Well, let's go
2 through discussion tomorrow and take a look.
3 I'm committed to meeting with any groups that
4 want to sit down and talk about this. I think
5 we do need to have a discussion. I think we
6 need to put the information on the table and
7 we need to make a, you know, a good decision
8 on this, and so if it needs my involvement, I
9 will sit down with the groups together, I
10 think it'd be good if we could get a working
11 group or some group to sit down to try to work
12 this.

13 So let us go through tomorrow
14 afternoon, and if it takes additional time for
15 comments, we'll do it. But I'm just telling
16 you, I'm committed to try and make this work.

17 So my time will be made available to do it.

18 I know it's you all's lunchtime but
19 thank you very much for participating in this
20 advisory committee. We do have lots of issues
21 we need to work through, and I know there's a
22 lot of frustration with the shark management,

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1 and there's a lot of frustration with several
2 other management issues we have before us.

3 But the best way to do it is we can
4 sit around these tables and try to get groups
5 together to work through it, and, you know,
6 bluefin tuna, which I don't know if you all
7 talked about it, we'll talk about, I think
8 it's a stock that's probably about collapsed.

9 I'm meeting with John Spencer tomorrow,
10 tonight and tomorrow, to try to see if we can
11 do anything else with the European Union on
12 this issue.

13 We'll be meeting in Raleigh, North
14 Carolina, in July, with some international
15 meetings on bluefin and on capacity issues
16 within the international arena.

17 Fisheries are really global and we
18 need to work through it. We just had
19 confiscation of a Mexican boat for illegal
20 shark fishing in the Gulf, and so we are doing
21 everything we can to work through these
22 issues. So thank you for coming and I will be

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1 available to do whatever I can to see if we
2 can work through the swordfish, in particular.

3 The bluefin, I just want to tell you, we have
4 just made available a lotta money to try to
5 look at the bluefin tuna issue, both from a
6 hook standpoint in the Gulf, breakaway hooks,
7 to start experiment there, to get a better
8 understanding of the biology, to do more of
9 the work to try to look at the real mix of the
10 stocks, and so we will be doing quite a bit to
11 look at the herring issue in the Cape Cod this
12 year. So we found some money to invest in
13 bluefin, cause I think that's a stock that,
14 economically, is important to both federal
15 recreation and commercial industry, and it's
16 one that, honestly, seems to be "going down
17 the tube," though. The season's been open,
18 the state opened, and we caught 10, 11 percent
19 of our quota last year. I think it's 11
20 percent in the U.S.

21 But thanks for coming and let's
22 keep talking, and let Margo, Alan, whoever

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1 else is here, let me know when I'm needed and
2 where I'm needed, and we'll make it work.
3 Thank you.

4 [Pause]

5 MS. SCHULZE-HAUGEN: [in progress]
6 and we'll get started.

7 MR. RILLING: Thanks, Margo. My
8 name is Chris Rilling. I'm going to take you
9 through our essential fish habitat
10 presentation this afternoon and try and get us
11 back on track.

12 So with that, I think you all know
13 that we are engaging in amendment one to the
14 consolidated FMP, and that's going to be our
15 essential fish habitat amendment. To give you
16 a little bit of background on the requirements
17 as established by the Magnuson-Stevens Act, it
18 requires NMFS--this is back from 1996, and
19 incidentally, there were no changes in the
20 reauthorization to any of the EFH provisions.

21 So these are from the '96 MSA Act and they
22 remain the same.

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1 So the first requirement for NMFS
2 and for the councils is to identify and
3 describe essential fish habitat. Essential
4 fish habitat is defined as those areas
5 necessary for responding, breeding, feeding,
6 and growth to maturity.

7 The second requirement is to
8 minimize, to the extent practicable, adverse
9 effects on EFH caused by fishing. A third is
10 to identify other actions to encourage the
11 conservation enhancement of EFH. And the
12 fourth is a timeline, that the Secretary will
13 set forth the schedule for amendment of FMPs
14 to include the identification of EFH and for
15 review and updating of EFH.

16 In followup regulations that were
17 implemented in 2002--these are actually
18 regulatory guidelines, it was a final rule
19 that was published in January 2002--went into
20 a little more descriptive detail about what
21 was required under the EFH provisions of the
22 MSA, and--

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1 [Microphone adjustment]

2 MR. RILLING: Sorry about that.

3 The regulatory guidelines that were
4 published in 2002 required NMFS and the
5 councils to identify EFH for each species and
6 life stage, so it just went into a little more
7 detail than what was described in the MSA. In
8 addition, it required us, at NMFS, to identify
9 habitat areas of particular concern, or HAPCs,
10 based on one or more of the following
11 criteria.

12 And that included the ecological
13 importance of that habitat type, the
14 sensitivity of the habitat to human-induced
15 degradation, the extent to which development
16 activities will stress the habitat, and the
17 rarity of the habitat type. In addition, the
18 regulations required us to identify fishing
19 and nonfishing activities that may adversely
20 effect EFH; to minimize fishing impacts that
21 are more than minimal and not temporary; and
22 to review all EFH information at least once

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1 every five years.

2 In terms of this amendment to the
3 timeline, is as follows. We published the
4 Notice of Intent on November 7th, 2006. The
5 scoping is during this meeting. The comment
6 period, incidentally, on the Notice of Intent,
7 ended December 22nd. The next step will be
8 producing a predraft, which we're targeting
9 for May 2007, and that will be followed by the
10 proposed rule and the draft EIS, some time in
11 the fall of this year, and we're anticipating
12 the final rule, and the final EIS, in the
13 spring of 2008.

14 To give you a little bit of
15 background, especially for the new AP members
16 on HMS essential fish habitat history, the
17 original EFH descriptions for HMS were
18 published in the 1999 Fishery Management Plan
19 for tuna, swordfish, and sharks, and in
20 amendment one to the billfish FMP for
21 billfish. Several HAPCs were identified and
22 described for sandbar sharks in the '99 FMP.

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1 In 2003, amendment one to that
2 original '99 FMP, we updated EFH for five
3 shark species, which included sandbar,
4 blacktip, dusky, nurse, and finetooth.

5 In this amendment, NMFS will
6 consider updating all Atlantic HMS/EFH. What
7 we did in terms of our five year review, which
8 was required by the regulations, was to break
9 that five year review into two phases. Phase
10 I, which was completed in the consolidated FMP
11 included the following steps.

12 We did data collection from state,
13 federal and nongovernmental data sources,
14 including observer program data, state
15 surveys, tagging programs, and data from
16 individual researchers and institutions. We
17 took the data that we had and mapped that
18 data, and published the new maps with all the
19 new data in the FMP, but no changes to the
20 boundaries or the EFH descriptions were
21 proposed at that time.

22 So that was simply the data

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1 synthesis and review portion of our EFH
2 review. And then we also reviewed gear
3 impacts. A review of all gears that may
4 affect EFH was completed, and that includes
5 all state-managed fisheries, other federally-
6 managed fisheries, as well as the impacts of
7 our own gears on EFH or HMS.

8 Phase II, which is what we're doing
9 in amendment one to the consolidated FMP,
10 includes three steps, among others, the first
11 being data mapping and analysis. So we're
12 taking all that data that we acquired during
13 our data review phase, in Phase I,
14 incorporating that into a geographic
15 information system and using that to map the
16 geospatial data for each species and life
17 stage.

18 We'll also be updating EFH, so
19 we'll update those areas, as necessary, based
20 on a review and analysis of the new
21 information that we provided in the
22 consolidated FMP.

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1 And finally, we may be proposing
2 measures to minimize fishing impacts, as
3 appropriate, and if necessary. To give you a
4 little bit of detail on what we've been doing
5 over the last few months, since we completed
6 the consolidated FMP--and by the way, I'd like
7 to acknowledge Cary Wong, who's with us here
8 today. He's actually from NOS, he's an
9 oceanographer, and he's been on detail to our
10 office since October of last year, helping
11 with a lot of this EFH mapping and updating,
12 and we really do appreciate his efforts,
13 because it's quite labor-intensive.

14 So to walk you through what we've
15 been doing with the new data that we acquired,
16 and in addition to some of the data that we
17 presented in the consolidated FMP, we're still
18 trying to update whatever new data may be out
19 there from--there's always this lag period
20 between when we acquire data for the last FMP
21 and when we're kicking off a new FMP. So
22 we're trying to fill in the gaps for a year or

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1 two's worth of data and incorporate that into
2 our current analysis as well.

3 So just to walk you through some of
4 the steps, in terms of what we're doing with
5 our EFH data. The distribution points--

10A 6 and for highly-migratory species, as many of
7 you know, the data that we have for EFH is
8 largely distribution information or
9 presence/absence data. Data from tagging
10 programs, as I mentioned before, fishery-
11 dependent and independent data sources. We
12 have actual point locations of where these
13 species were at a given point in time, when
14 they were captured or tagged, and then
15 released.

16 So we're taking those points,
17 latitude and longitude points, with geospatial
18 data, mapping those in geographic information
19 system, combining it with a 10 minute by 10
20 minute grid, and I'll walk you through how we
21 do this in a map version. This is just the
22 text version here.

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1 We then create a scale to reflect
2 the number of observations that fell within
3 each of those 10 by 10 minute grids. A 10
4 minute grid by 10 minute grid is approximately
5 100 square nautical miles. And then we take
6 the high-count cells, because after we have
7 mapped those points within that grid, we do
8 get a scale, and we use those high-count cells
9 as the basis for evaluating, perhaps, new EFH
10 boundaries. What we've been discussing and
11 working out, in terms of some of the issues in
12 doing this mapping with our science centers,
13 is establishing buffers when we go to remap
14 these areas around some of our grid cells.

15 So for coastal species, at this
16 point we've decided on a 10 nautical mile
17 buffer around our high-count cells when we're
18 delineating these new areas, and for pelagic
19 species, we've settled, at this point, on a 20
20 nautical mile buffer.

21 This is again very early stages of
22 analyzing this data, and this is the sort of

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1 thing that we would like some feedback from
2 you all on, is whether these buffers are
3 appropriate or whether we should be looking at
4 some other aspect of this.

5 So to walk you through it visually
6 now, what we do with the data when we get it,
7 NGIS's, first we look at all the points.
8 Here, we have all the points over the history
9 of all these different tagging programs and
10 data collection programs. So we're looking at
11 quite a lengthy time scale here. It could
12 date back to the mid to early '70s. Some of
13 our longest time series come from the
14 cooperative shark tagging program. They run
15 back to the mid '60s. So we have some very
16 long time series on some of our species, and a
17 lot of data points.

18 In addition to all the points, you
19 see the sources for all those data points
20 along the right. This is looking at adult
21 blacktip shark only, and if you'll look at the
22 upper left, you'll see that that's categorized

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1 as sharks that are greater than or equal to
2 137 centimeters.

3 This is more or less a copy of the
4 maps that were provided in the consolidated
5 FMP, last October, and on every one of those
6 maps you'll see the data sources that were
7 used to compile those points and create the
8 grid that I'll show you on the next slide.
9 And I know a lot of those have abbreviations,
10 we defined what those were, but just going
11 briefly down the list, the first one is Cospan
12 [ph], you have the Cooperative Shark Tagging
13 Program, the Southeast Longline Survey, the
14 Shark Observer Program.

15 You have some individual
16 researchers, Mote Marine Lab, Parsons, another
17 individual researcher, Pelagic Observer
18 Program, Southeast Gillnet, Southeast
19 Longline, and some more shark observer program
20 data as well as Carlson independent data, and
21 Ulrich, at the very bottom.

22 So part of what we'd like to hear

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1 from you all, if you haven't had a chance to
2 look at the consolidated FMPs, to look at some
3 of those data sources closely, make sure there
4 aren't any that jump out at you as missing.

5 Are there any data sources that we
6 need to include, that we didn't, in the
7 consolidated FMP? And that would be important
8 for us to have at this point, when we begin to
9 actually consider revising or updating the EFH
10 boundaries.

11 So here are the points, and the
12 next step is to combine those points with our
13 10 by 10 minute grid. So each little square
14 you see is one of those 10 by 10 minute grids,
15 or 100 square nautical miles.

16 The number of points that were in
17 each one of those grids is then reflected by
18 the color scale at the bottom right, left.

19 So you see that the number of
20 observations that fell within any particular
21 grid ranged from one up to four hundred and
22 ninety-nine.

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1 What we've decided to do, based on
2 our discussions with our science center
3 technical experts, is to use the highest three
4 count, the highest three scales that you see
5 in lower left, to serve as a beginning point
6 for establishing the boundaries around, the
7 EFH boundaries for some of our areas. So
8 here, you're seeing the grids for only the
9 highest three counts, from 23 up to 499.
10 We've eliminated the lowest one.

11 And based on those high-count
12 cells, then, we would draw the boundaries
13 around those existing points. The areas that
14 we've drawn are the hashed-in areas. So those
15 are the new areas that we're considering, and
16 what you see in pink are the current areas,
17 the 1999 established boundaries.

18 So using this mapping technique,
19 what we're trying to do is come up with a more
20 quantitative analytical approach to actually
21 delineating some of these areas as a first
22 step, then take these boundaries, based on

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1 this new data and the new boundaries that
2 we've established, and vet those with our
3 science center staff, and see if there are
4 either areas that we're incorporating that
5 shouldn't be incorporating, or areas that
6 we're missing that should be incorporated.

7 So this is sort of the first step
8 of mapping the data, creating a quantitative
9 and analytical approach to creating and
10 establishing amended boundaries. What you
11 notice here, if you're looking at, again, just
12 adult blacktip sharks, is that we would
13 potentially be proposing a new area along the
14 Gulf Coast of Florida, Panhandle, Mississippi,
15 Alabama, Louisiana, that hashed area.

16 Some of the areas along the Florida
17 west coast would increase slightly.
18 Similarly, on the Florida east coast, some of
19 those areas would increase slightly.

20 The area up off of North Carolina
21 would be decreased slightly.

22 Using a similar approach, and

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1 recall, that we have to establish boundaries,
2 EFH descriptions, identifications and
3 boundaries for every species and every life
4 stage. So we've broken our sharks up into
5 adults, juveniles, and then neonate and young
6 of the year as a third category.

7 For some of our other species,
8 which again, we've only preliminarily started
9 looking at some of the shark data, some of our
10 billfish, swordfish, we'd be mapping out
11 adults, juveniles, and larvae, or spawning
12 areas.

13 But here, looking at juvenile
14 blacktip sharks, the new areas, although,
15 again, these are just draft proposed at this
16 point.

17 The new areas roughly coincide with
18 some of the existing areas that you see in
19 pink. There are some changes evident along
20 the Florida east coast, some along the Gulf,
21 but, in general, they roughly coincide with
22 some of the existing EFH areas.

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1 Again, you can see the data sources
2 in the center of the map. This is a look at
3 the neonate blacktip sharks. The same thing
4 again. We've mapped the high cell count areas
5 and drawn boundaries around them, comparing
6 them to what the '99 boundaries look like, to
7 look for differences, see where we might have
8 new areas, where we might be eliminating old
9 areas, and this again would be, especially
10 like on this one, for instance, the neonate
11 EFH along the Florida, Georgia, and South
12 Carolina coast, was pretty extensive back in
13 1999.

14 This time, based on our high count
15 cells, we only have one small area off of
16 Georgia. That's an area that we want to sit
17 down with our science center staff on and
18 discuss and say, Is this something that's
19 reasonable? Is it feasible? Is this really
20 the only area along the Atlantic east coast
21 that rises to the level of essential fish
22 habitat for neonate blacktip sharks? and vet

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1 this, very thoroughly, before we actually
2 proposed anything.

3 But I'm sort of walking you through
4 our initial attempt at trying to refine and
5 update some of these EFH boundaries. At the
6 same time, of course, we'll be looking at the
7 literature in terms of the vetting process,
8 we'll be reviewing information from our
9 science center staff, any additional
10 information that you all, as reviewers, at
11 some point, of either our predraft or draft,
12 would have for us, to make sure that we're
13 actually identifying the appropriate areas.

14 Here, we're moving on to a pelagic
15 species. I guess one thing I didn't discuss
16 thoroughly on the coastals, blacktip sharks
17 being a coastal species, we used a 10 nautical
18 mile buffer. So for each of those high count
19 cells, we left a 10 nautical mile area around
20 each grid.

21 So that's why you see that, that
22 slight buffer between the points and the

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1 boundaries. For pelagic species, and here
2 we're looking at adult shortfin mako, we used
3 the same approach but a 20 nautical mile
4 buffer. These being probably more mobile than
5 some of the coastal species, we decided a
6 wider buffer would be a more precautionary
7 approach, and could potentially be a feasible
8 way to go about this. But, again, that's
9 something we'd like more feedback and comment
10 from you all on.

11 I don't see the 1999 EFH
12 boundaries, but they do coincide somewhat with
13 these new areas that we've mapped here.

14 We have far fewer data points for
15 shortfin mako than we did for blacktip sharks.

16 So you'll see that reflected in the scale,
17 which now only runs from one up to five.

18 So again, selecting the three
19 highest count cells we would use, from two up
20 to five, to establish, preliminarily, our new
21 boundaries for adult sharkfin mako and that
22 would be the hashed area.

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1 For juvenile shortfin mako, here,
2 you can see the '99 EFH boundaries in pink,
3 using the same approach I discussed here, we
4 would be, it looks like we'd be reducing the
5 scope of the '99 EFH area some. Far greater
6 numbers of observations for juvenile shortfin
7 makos, you can see from the scale.

8 And then for neonate shortfin mako,
9 again, a similar sort of overall boundary to
10 what we had in 1999, but perhaps some
11 modifications in some areas, reducing the
12 extent, in other areas possibly increasing the
13 extent.

14 These are just two examples that we
15 drew upon because we have some of the more
16 recent data, and we've updated these, and
17 we're just starting out with this process. So
18 we don't have a lot of other species that we
19 could show you at this point.

20 But this was supposed to be for
21 demonstration purposes only. It's something
22 that we'd like to get more feedback from you

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1 on.

2 As I sort a mentioned, as I was
3 going through the slides, NMFS' technical
4 experts will be consulted on interpretation of
5 the data, the review of the new boundaries,
6 and in the determination of appropriate
7 methods used to identify EFH.

8 In addition to updating our EFH
9 areas, we will be looking at fishing and
10 nonfishing impacts, and analyzing those, based
11 on those new areas.

12 And finally, in addition to
13 revising our EFH boundaries, new HAPCs and
14 potentially minimization of fishing impacts
15 may be proposed, as necessary.

16 So some of the questions that we've
17 been struggling with and thinking about a lot,
18 working with our science center staff, are the
19 following.

20 Are there other approaches that
21 should be considered? Are there other data
22 sources, as I mentioned, that we might be

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1 overlooking, and that would be important to
2 include in our review and to update some of
3 these areas.

4 We have the question about the
5 buffers. Is 10 nautical miles appropriate for
6 coastal species, and is 20 nautical miles
7 appropriate for pelagic species? Is that
8 reasonable?

9 In addition, we're always looking
10 for any other issues or concerns that we
11 should be aware of when updating EHF. And
12 finally, we'd like any feedback you might have
13 on fishing impacts. In terms of this, what we
14 did in the consolidated FMP was looked at all
15 the gears, as I mentioned. The only HMS gear
16 that could potentially have an impact on
17 habitat would be, of the HMS gears, would be
18 bottom longline.

19 There are some other councils that
20 have taken actions with regard to bottom
21 longline and habitat. The Caribbean Council,
22 for one. That was one of the slides that you

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1 saw in the Caribbean SFA document that Jackie
2 presented, and those are areas that they
3 closed to bottom longline gear. We've
4 complemented those regulations by closing it
5 to HMS bottom longline gear as well. There
6 are some areas in the Gulf, that the Gulf
7 Council has proposed for closure to bottom
8 longline gear, as a result of habitat impacts.
9 Those are largely around the Dry Tortuga
10 coral reef areas.

11 So we'd be looking at those from
12 our own perspective, using our own data, to
13 see whether we think that our fishermen are
14 fishing in those areas, and, if so, what
15 impacts that bottom longline gear might be
16 having on those areas, and if we were to find
17 that those impacts were occurring, we might
18 propose measures to reduce those impacts, and
19 that could include gear restrictions or
20 closures.

21 So those are some of the things
22 we'll be thinking about in terms of fishing

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1 impacts. So that concludes my presentation.
2 I'll leave the question slide up here, if you
3 all have any comments or questions, I'll be
4 happy to entertain those.

5 MR. [Off-mike remark]

6 MR. Chris, it strikes me that
7 you've got some difficulties that arise out of
8 your approach here. You're basically using
9 encounter rates to define essential fish
10 habitat, and you haven't weighted those in
11 encounter rates by either sampling
12 distribution or sampling intensity. For
13 instance, where you're using adult encounters
14 in fishery gear, you really should look, I
15 think, to weighting those encounters by the
16 amount of fishing effort in any area.

17 In other words, if you have areas
18 where there is a lot of fishing effort, you're
19 going to have a lot of encounters. Other
20 areas, where there's very little effort, you
21 may not have very many encounters, yet those
22 other areas could be valuable fishery habitat.

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1 And similarly, for all the sampling
2 that's done to identify the neonate areas, and
3 other things, I assume they come from
4 scattered and sporadic scientific sampling.
5 An outshoot of this would be that, for one
6 thing, if a stock of a species was declining,
7 in abundance, and you come periodically to
8 look at its distribution of essential fish
9 habitat by encounter rates, and those
10 encounter rates decrease and decrease, you
11 would end up decreasing essential fish habitat
12 while the stock was decreasing, when, in fact,
13 you might want to be doing the opposite. You
14 know, for instance, mako sharks are
15 encountered regularly in the recreational
16 swordfish fishery off South Florida. But you
17 don't have that kind of data to look at, so
18 you're ignoring that whole area as if they're
19 not there.

20 It's simply because nobody is
21 sampling there. And I know this is a very
22 difficult thing to approach, but, in reality,

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1 most of the, particularly the pelagic
2 essential habitat, does not only exist in
3 space, it exists in time, and it moves and
4 alternates over periods of time ranging from
5 hours to seasons, and you might want to--
6 certainly, you're not going to be able to
7 grapple with hours, but at least you might
8 want to look at seasonal variations in that
9 kind of habitat.

10 MR. RILLING: All very good points.

11 Your fishery, dependent versus independent
12 data, that's something that we've looked at.
13 It's something we'll continue to look at,
14 because you're right--depending on the data
15 source you look at, you could have some quite
16 different EFH boundaries.

17 What we've done, at least
18 preliminarily, is decide to use all our data
19 sources, rather than breaking it out, and to
20 looking at only fishery independent or
21 research data to try and pinpoint certain
22 areas, because we really--we want to be

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1 inclusive rather than exclusive in terms of
2 the data sources that we're considering at
3 this point. But your comment is well-taken
4 and I can appreciate that.

5 In terms of the time series and
6 perhaps having a stock that's declining in
7 abundance, or whatever, part of the reason
8 we've kept all of our data in there is so that
9 we don't just get a current snapshot of where
10 those areas area, what the existing
11 distributions are. We wanted to get that
12 historical context of where these areas have
13 been in the past, where that particular
14 species has been encountered.

15 I do agree that there are
16 definitely some cautionary, some things you
17 need to keep in mind, a cautious approach when
18 you're using the type of data we're using
19 which is primarily distribution data. So, in
20 general, I agree with your comment.

21 MR. : And there might be some
22 way that you can use the data that you have to

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1 define habitat, but then go on and look at
2 actually what habitat are you--what has it
3 defined, and where else does that same habitat
4 exist, that perhaps the sampling hasn't
5 occurred?

6 MR. NIELAND: Dave Nieland,
7 Louisiana Sea Grant. You still have to adjust
8 for effort, somehow or another. Presence,
9 absence data is very prone to clumping due to
10 effort. In a lot of these maps, I've seen a
11 lot of clumps up in northeast Florida, right
12 off, probably off Daytona Beach where Rusty
13 lives. There's all kinds of sharks being
14 caught up there. That probably indicates that
15 there's a lot of them there, because the
16 fisherman are there, but you still have to
17 adjust this data for effort.

18 The other thing I'd like to say is
19 that for your blacktip shark, you showed your
20 essential fish habitat area up in the North
21 Central Gulf. I would submit that that whole
22 area from Mobile bay westward to, past, say,

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1 to the midcoast of Louisiana, is not just an
2 essential fish habitat, it's an essential fish
3 ecosystem, which is quite unlike any other in
4 North America. We've got the largest input of
5 fresh water into the Gulf of Mexico, right in
6 that area. That input not only affects just
7 the water itself. It carries all kinds of
8 nutrients and whatnot, that makes that area,
9 right there, highly productive, for not just
10 fin fish, but for crustaceans, and all kinds
11 of other stuff that they have to eat.

12 Is there some place--I guess my
13 question is, is there another direction we
14 should be heading, away from essential fish
15 habitat, that might give us a better handle on
16 what's actually going on in some of these
17 areas? Perhaps an ecosystem approach, is what
18 I'm asking. Thank you.

19 MR. RILLING: Well, yes, to answer
20 your question, I think that would be an
21 appropriate approach to take, and when you
22 made that comment, I started thinking about

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1 all of the other HMF/EFH areas that are in
2 that area as well. I mean, we've only shown
3 you one species. We've got, you know, 50-plus
4 species of fish that we need to look at.

5 So, yes, I think when you consider
6 the--but see, not just the Gulf Coast. There
7 are going to be other areas that might meet
8 that type of--or have that type of situation.

9 It's a good question. Ecosystem management
10 is definitely a direction that NOAA wants to
11 head, and is, in certain areas, and I think
12 we're definitely trying to do that too.

13 MR. DONOFRIO: Chris, thanks. Jim
14 Donofrio. I just can't believe that this EFH
15 thing is rearing its ugly head again. I say
16 it that way because, to me, the definition
17 hasn't changed since '98, I guess, when we
18 started talking about it here.

19 I mean, one could interpret this
20 definition as any place in the ocean is
21 essential fish habitat. Any piece of water.
22 Any piece a tidal water is essential fish

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1 habitat, if you read it. And, you know, I
2 thought they were going to narrow this down to
3 something where, as fishermen see it, both
4 recreational and commercial, how we see it in
5 conjunction with forage bases and habitat and
6 structure, nursery areas, things like that.

7 I mean, this thing is so broad,
8 again, it scares me to death, it does, because
9 it's so broadly interpreted, or it could be,
10 and there's a lot of bogeymen out there that
11 would like to use that against us, and, to me,
12 we're not using it, fishermen-friendly.

13 You know, we could narrow essential
14 fish habitat down to those things but to have
15 it so broadly interpreted, I think it does a
16 disservice to us.

17 MR. RILLING: Well, I tend to
18 agree, and I think others within NOAA agree,
19 but rather than doing something with MSA at
20 this point, what the Office of Habitat
21 Conservation has done is issued some guidance
22 that's gone out to the councils, and to us,

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1 and encouraging us, where possible, to refine
2 the extent of EFH, because I think it has
3 gotten a little out of control.

4 I've heard Bill Hogarth say that at
5 times, that he thought it was a little out of
6 control. When you start looking at all the
7 overlap of all EFH areas, some species had EFH
8 all the way out to the EEZ. Clearly, at least
9 initially, in '99, when we got the mandate to
10 establish essential fish habitat, some people
11 threw their arms up in the air and said we
12 can't do it, so we're going to name everything
13 EFH.

14 But I think the onus really is on
15 us at this point, to come up with constructive
16 ways to refine those areas, and, in a way,
17 we're hoping to do that with ours, but we're
18 taking a cautious approach because there are
19 all these other concerns, and distribution
20 data is one way to look at it. It might be
21 one way, using thresholds, to refine those
22 areas.

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1 I mean, we've used a pretty liberal
2 approach, of getting not as large an area as
3 we could, based on the points, but at least
4 trying to refine those areas somewhat. NMFS,
5 Office of Habitat Conservation, has gone so
6 far as to say that establishing thresholds,
7 whatever they may be based on, temperature,
8 salinity, habitat types, is appropriate, and
9 could be used to refine some of the EFH areas.

10 So I think the councils are trying
11 to head in that direction, we are as well, to
12 get this more under control.

13 MR. DONOFRIO: I'm just going to
14 respond back to you, Chris. I think it should
15 be the purpose of the Department of Commerce
16 to manage this EFH issue for the access users,
17 not the non-access people, and that's how it
18 should be looked at, because if you do it for
19 access people, fisherman, commercial,
20 recreational, you're going to look at
21 essential fish habitat differently than the
22 non-access people who want to make it broad

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1 for their own devious reasons.

2 MR. RILLING: Well, personally, I
3 think we should just be looking at from the
4 species standpoint, and what really is
5 critical for that species, as opposed to
6 looking at one user group over the other.
7 That's the approach I'm trying to use.

8 MS. : Following up on Jim's
9 comments, it's definitely, EFH is a sticky
10 subject for highly-migratory species, but one
11 place where I think it ca be meaningful is on
12 spawning grounds, and there's a lot of new
13 research for bluefin tuna that shows a
14 behavioral characteristic that could be an
15 indicator of spawning in a discrete area in
16 the Gulf of Mexico.

17 The western Gulf, you know, I would
18 argue that that should be raised to a habitat
19 area of particular concern, given the status
20 of bluefin, which, you know, Bill alluded to
21 when he was here earlier. And there is actual
22 concrete science supporting that one small

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1 area for EFH.

2 MR. RILLING: As you probably know
3 from looking at our EFH maps, practically the
4 entire Gulf of Mexico is currently EFH habitat
5 for bluefin tuna spawning and larvae.

6 MS. : [Off-mike remark]

7 MR. RILLING: I agree, and it
8 brought to mind, when you were making that
9 comment, that--I mean, the one big benefit--
10 there are a lot of benefits to having EFH, but
11 the one big benefit, tangible benefit I see,
12 is that for any federally-permitted, funded
13 projects, they have to consult with NMFS on
14 EFH, if that project occurs within EFH for a
15 given federally-managed species.

16 That certainly happens to be the
17 case for a lot of our HMS, even the ones that
18 are out in the middle of the Gulf, where
19 they're proposing LNG projects, oil production
20 projects, that sort of thing. So I agree with
21 your comment. I think bluefin tuna is
22 definitely one that we have some new

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1 information on and we'll be looking at some of
2 those spawning areas in the western Gulf, and
3 I appreciate your comment about the HAPCs.

4 MR. : Okay. Hi, Chris. I
5 wanted to bring up another aspect of EFH that,
6 according to the NMFS guidelines, is essential
7 fish habitat but I don't think it's been
8 mentioned so far this morning, and that's the
9 loss of prey species being considered an
10 adverse effect on EFH, because it can
11 adversely affect managed species by degrading
12 feeding habitat.

13 And to me, this is only meaningful
14 if NMFS issues guidance, for example, to the
15 New England Council and to the Mid-Atlantic
16 Council, on how they should manage herring,
17 squid, mackerel, etcetera, for their role as
18 forage for bluefin tuna, swordfish, etcetera.

19 Identifying key prey species is
20 important but the management of those key prey
21 species, in the case of HMS, falls under the
22 councils. And although the New England

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1 Council has made some preliminary moves in
2 that direction, they still have a ways to go,
3 and the Mid-Atlantic Council has really not
4 moved in that direction, and they do need
5 guidance from NMFS on that.

6 And I think you can help them on
7 that by including in the FMP a bit more
8 information on the predator/prey relationships
9 rather than a description of each of these
10 species as opportunistic feeders, and listing
11 a lot of things that they eat. But there are
12 some strong linkages that have been identified
13 in the research and the literature, herring
14 for bluefin tuna, up north, for example, squid
15 for swordfish throughout their range, and that
16 if you sort of map these linkages, both in
17 space and time, and try to make the critical
18 connections, you can provide information that
19 can be used in management decisions by the
20 councils on those species.

21 And if you're doing things I'm not
22 aware of in that regard, I'd love to hear

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1 about them. I just want to urge you to
2 consider that in this amendment.

3 MR. RILLING: Yes, we will be. In
4 fact, the guidance that I mentioned a minute
5 ago, the Office of Habitat Conservation put
6 out, included some recommendations on dealing
7 with prey species. Their main recommendation,
8 as I recall, was that no EFH area should be
9 solely or specifically based upon the
10 distribution of prey, but that prey are,
11 you know, an integral component of that--if
12 that prey are an integral component of that
13 particular species essential fish habitat in
14 terms of feeding, or whatever, that that
15 should be one of the things taken into
16 consideration.

17 I can show you the guidance and you
18 can take a look at that.

19 MR. : Yes. Is that something
20 that we can comment on as well? I mean, at
21 least--not for their purposes but for--

22 MR. RILLING: Absolutely; yes.

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1 MR. : If you want to use that
2 in--

3 MR. RILLING: They've already put
4 it out and I think they put it out around the
5 turn of the year. I don't recall. I think it
6 was just guidance to the councils. I don't
7 think they went through the whole public
8 hearing process, and all that, but I can share
9 that document with you and you can definitely
10 provide comments to us on it.

11 MR. : Just a couple questions.
12 When are the sheets going to be out for the
13 tuna fish? When will you have those things
14 completed?

15 MR. RILLING: You mean the
16 distribution maps and potential boundaries?

17 MR. : Yes.

18 MR. RILLING: Well, if you recall
19 the timeline I showed at the beginning, we're
20 really at the early stages. We still have to
21 do a predraft, which lays out some of these
22 broader topics that we're discussing right

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1 now, get feedback from you all and the public
2 on those. The first place that I believe
3 you'd see those for all the species would be
4 in the draft environmental impact statement,
5 some time this fall.

6 MR. : And then the next thing,
7 you were talking about these buffer zones, the
8 10 nautical mile buffer zone for coastal and
9 then twenty for the pelagic stuff there.
10 That's a pretty wide area, especially if you
11 consider a coastal species something that
12 lives up on the Continental Shelf, and then
13 maybe in further rulemaking, or something like
14 that there, you want a 10 mile buffer zone
15 from the shelf, to be able to work with the
16 pelagic species in there.

17 If you have to fish 10 miles off
18 the bank, trying to catch tuna fish up in the
19 Mid-Atlantic to the Northeast, or to the
20 Canadian border, you might as well be in a
21 different ocean. I think that buffer zone
22 there--that's fairly broad.

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1 On the east coast of Florida, if
2 you do a 10 mile buffer zone, you're going to
3 be in Bahamian waters by the time you do the
4 ten and the twenty on the thing.

5 MR. : Yes. I hate to belabor
6 this, but I've got to tell you, the more I
7 think about this--I want to at least get on
8 the record for my organization--it scares me.

9 We fish warm water eddies, you know,
10 offshore, just like commercial fishermen do.
11 A warm water eddy is essential fish habitat
12 for that--it's its own little ecosystem.

13 How are we supposed to stay 10
14 miles away from that eddy, when that's where
15 the fish are? I mean, that's the question I
16 have to ask, and, you know, this is getting
17 scarier and scarier, and it seems to me that
18 we're just heading for a disaster here, that
19 the extreme end of one community just wants to
20 dominate this process and take us out of
21 access, and this is what essential fish
22 habitat is going to end up doing, if it gets

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1 interpreted in this manner.

2 So I just want to get on the
3 record, say I oppose that. That is
4 ridiculous. We fish--that's a real ecosystem.

5 Those eddies are legitimate ecosystems and
6 habitats.

7 MR. RILLING: No, we're not
8 proposing--essential fish habitat's different
9 from time area closures. We're delineating
10 the habitat areas for these species. That
11 doesn't mean that those areas are closed to
12 fishing. So even if we have a buffer there,
13 that's for the purposes of establishing that
14 EFH boundary. That's not say that all fishing
15 would be prohibited within that area.

16 As you know, I mean, we've got EFH
17 all over the Continental Shelf and the Gulf of
18 Mexico. Fishing still occurs there. As I
19 mentioned, the main reason, and the main,
20 really, power behind the EFH regulations as I
21 see them, is that when there are large-scale
22 projects, wind power projects, dredging

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1 projects along the coast, and those happen to
2 fall within an EFH area, then that agency,
3 entity that's proposing that project has to
4 consult with NMFS on the potential impacts of
5 that project.

6 We're doing that from our end in
7 terms of looking at gear impacts, but as I've
8 mentioned, most of our gears, being pelagic
9 gears, and fished in the water column, are not
10 having direct, negative, any kind of impact on
11 the habitat, other than this issue I raised
12 with bottom longline gear.

13 So I guess I'm not really--I mean,
14 I can understand your point but I don't think
15 you need to be concerned in terms of closures.

16 It's a whole separate subject, you know, the
17 closure discussion, and that's not where we
18 are at at this point with EFH.

19 MR. : So buffer zones are being
20 proposed for established boundaries--

21 MR. RILLING: To help us--

22 MR. : --and those established

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1 boundaries could be in an area where an eddy
2 occurs, and so then what happens there? We're
3 out of it. We're out of it.

4 MR. : [Off-mike remark]

5 MR. RILLING: You can still--right.
6 It's not prohibiting access; no.

7 MR. : [Off-mike remark]

8 MR. : I was so focused on
9 forage, first, that I forgot my other comment,
10 and that was I wanted to support Shana's
11 recommendation on bluefin tuna spawning
12 grounds being elevated to a habitat area of
13 particular concern, and I think it would have
14 some value. I think the area in the northern,
15 northwestern Gulf, and the time that bluefin
16 are spawning there is pretty well documented.

17 It is a discrete area in time. The critical
18 condition of the bluefin spawning stock is
19 well-known, and if that would bring more
20 scrutiny on that area, and fishing's impacts
21 on that spawning stock while the bluefin are
22 in that area, I think that would be something

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1 that would be well worth the effort. I
2 encourage that.

3 MS. JOHNSON: Thank you. Gail
4 Johnson. Chris, just to clarify, essential
5 fish habitat, kind of harkening to what Jim's
6 questions were, it seems like it needs to be
7 confined to a discrete, describable area, so
8 that means bottom; is that right?

9 MR. RILLING: For some species.
10 It's not going to, for instance, include
11 bottom for swordfish or the marlin, billfish,
12 any of the billfish. That's going to be
13 pelagic waters. It's not going to include any
14 benthic habitat.

15 MS. JOHNSON: Okay. Phrased
16 differently, a specific area that has
17 latitude, longitude boundaries? And I have
18 one other question after that.

19 MR. RILLING: Yes; that's correct.
20 In fact, we have to delineate, spatially,
21 where that area is, with latitude and
22 longitude coordinates.

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1 MS. JOHNSON: Okay. So that moving
2 columns of water would not be, like eddies.
3 Okay. The next thing is a suggestion, and
4 that is I totally agree with your idea that
5 the greatest use and benefit to identifying,
6 you know, essential fish habitat, are the
7 reasons that you talked about, such as, well,
8 back in New England, when they wanted to
9 extract sand and gravel, that would have been
10 a major disaster for some of those areas.

11 I would suggest that you include
12 those reasons in the EFH document, and put
13 them right up there, because reading this, all
14 I see is talking about, you know, looking at
15 gear impacts, looking at fishing impacts, and
16 it's like, my gosh, they're depending on
17 fishing information to delineate fishing
18 areas, so that they can affect what we're
19 doing, which is a big circle. So, thank you.

20 MR. RILLING: You're right. I tend
21 to fall into that trap of focusing on fishing
22 gear, cause that's, you know, what we

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1 specialize in. But you're absolutely right,
2 and, in fact, in the consolidated FMP, we did
3 lay out all of the different potential
4 impacts, terrestrial and nonfishing, that
5 could potentially affect EFH, and you're
6 right--we will continue to focus on that in
7 the future as well.

8 MR. : Thank you. Relative to
9 the 10 mile area, we're talking about from
10 shoreline out ten miles. Okay. And then in
11 your deliberations as to what essential fish
12 11A habitat consists of and will
13 include. Have you reviewed or looked at what
14 the Atlantic States Marine Fishery Commission
15 has done with their habitat group, and how
16 they have identified essential fish habitats
17 within state waters? That's question one.

18 And then question two would be have
19 you taken into--or are you taking into
20 consideration the elements of official
21 sanctioned EFH, relative to the South Atlantic
22 also? And I'm assuming that you're going to

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1 capture the description of what HAPCs are as
2 the New England Fishery Management Council has
3 put out to be their guide?

4 I don't know if you have answers to
5 all of those, but it would seem to me, in the
6 broader sense of what you're trying to
7 accomplish, either, one, we have to assume
8 that you've done those three things, South
9 Atlantic, New England Council, and the
10 Atlantic States, and/or you haven't.

11 If you have, will they be
12 incorporated in this document, and if they are
13 incorporated into it, how will you dovetail
14 them? And maybe there are too many questions.

15 But if you could answer any of those, I'd
16 appreciate it.

17 MR. RILLING: Well, no, I haven't
18 looked at the Atlantic States Marine Fisheries
19 Commission document on EFH but I'd be
20 interested to, and thank you for pointing me
21 in that direction.

22 South Atlantic Council. Yes, we do

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1 have to say integrally involved, and connected
2 with what it is they're doing, because they
3 have proposed areas for closure for certain
4 gears that our HMS fishermen use as well. So
5 I guess we're trying to stay on top of some of
6 those issues. Again, I'd like to talk to you
7 some more about it, if there are some areas
8 that you think we're not covering.

9 MR. : Just a follow-on to that.

10 As far as the New England Council's
11 concerned, they've spent, I believe, two or
12 three years developing an HAPC package. In
13 order for an area to be considered, it has to
14 meet certain requirements, and I think there's
15 three out of five elements that would be
16 appropriate.

17 And it seems to me this is a wide
18 swath that we're trying to take, and it looks
19 like we're--my impression is we're taking a
20 top-down approach, that this looks like a good
21 area that we should consider because this is
22 where these animals reside, and/or spawn and

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1 pup, as opposed to looking what is down here
2 in existence, and how far each one of those
3 councils or commissions have gone toward that
4 direction of protecting some of those areas,
5 and then trying to marry the two together, as
6 opposed to having a group such as us sit here
7 and try to come up with is ten miles right or
8 twenty miles right.

9 And I know we have to go forward to
10 get the public's opinion, but maybe it would
11 be appropriate if we could get some of that
12 other background information and try to
13 incorporate it in, either one as reference
14 material that would guide us along.

15 I have similar concerns as to what
16 Jim said. I looked at what the Oceana Group
17 and the environmental group put forth, four or
18 five years ago, on Long Island, we had several
19 presentations, and quite frankly, everything
20 became EHF, from the shoreline out to about 60
21 miles, and it was from Florida to Maine, and
22 we questioned the same thing.

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1 What as the viability of doing that
2 without additional analysis, and the changing
3 of season to season, wherever these creatures
4 move up and down the coast. Thank you.

5 MR. RILLING: I think I understood
6 your question a little bit better the second
7 time around; or your comment. And yes, the
8 councils have identified and described EFH for
9 all their species, and in many cases have
10 mapped out those habitat types, where they
11 are. You can get that geospatial information.

12 We have it. The problem is that does not
13 necessarily coincide with what the essential
14 fish habitat descriptions are for our species,
15 because ours tend to be highly migratory,
16 further offshore, dependent, to some degree,
17 on coastal areas, depending on the shark
18 species and where they might pup. Yes, there
19 may be some overlap of those habitat types but
20 it's going to be pretty limited.

21 MR. HEMILRIGHT: Dewey Hemilright.

22 I was wondering, on this essential fish

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1 habitat, if one of these data sources--how do
2 you get to be labeled essential fish habitat?

3 Somebody goes there and catches a couple
4 adult blacktips and it's essential fish
5 habitat? I mean, what's the protocol to
6 labeling something essential fish habitat?

7 MR. RILLING: Well, it's
8 essentially the whole process we're going
9 through now. We get all the data we can. In
10 other words, any data source that we can get
11 our hands on, literature, geospatial
12 information, anecdotal data from researchers--
13 that all goes into the mix. We go out with
14 public hearings, we get comment, feedback from
15 you all, from the public. We propose some
16 areas and descriptions at some point. We get
17 feedback and comment, and then ultimately, we
18 will decide on what that final description and
19 that area is.

20 I mean, it's a multiyear process.
21 It took us several years to develop them back
22 in '99. I know Jim says this is a headache

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1 that won't go away. It never will. We
2 constantly need to work on reviewing our
3 habitat information. There's constantly new
4 science coming out. We should actually be
5 doing this every other year.

6 We get tied up with so many things,
7 that we tend to postpone and wait for that
8 five year mark, and then we get behind.

9 We should be reviewing and updating
10 these every year, but unfortunately, we don't
11 have the resources to do that.

12 MR. HEMILRIGHT: One more thing. I
13 notice South Atlantic Council has asked you to
14 complement their closures, and one of 'em is
15 particularly off of North Carolina, and it
16 shows where people have shark fished with
17 bottom longline.

18 Doesn't there have to be some type
19 of data to ban some type of gear in there,
20 besides just the want of the South Atlantic
21 Council? Because I happened to read the
22 minutes of a meeting that they had a few

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1 months ago, and in a couple pages of reading
2 of it, they were trying to drum up a
3 discussion of how they could ban bottom
4 longlining but they had no data for it.

5 And so it's kind a interesting,
6 watching each of them go back and forth, and
7 say, well, we can maybe say it's enforcement.

8 We can say enforcement needs it. Or we could
9 say, Did they catch any groupers? No, they
10 ain't caught no groupers. Well, how about
11 snappers? Can we figure it out with that?

12 And it seemed like they were on a
13 fishing expedition. Doesn't that somehow
14 just, you know, wanting to do this, doesn't
15 there have to be some printable information or
16 something for you to complement what they
17 want? I mean, can they just want anything and
18 get it?

19 Because, obviously, in reading the
20 meeting of their minutes, that they're sitting
21 around having a discussion, they didn't have
22 no reason. But they were thinking, they were

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1 trying hard to come up with a reason, and I
2 mean, it's pretty--it was kind a sick for me
3 to sit there and read this stuff, like damn,
4 you don't even got to come up with a reason,
5 you all can just do it.

6 And then I find out here, today,
7 they're asking you to complement 'em, but
8 there's no reason, in that area, to ban bottom
9 longlining. There's just no information.
10 They didn't have no information at the time,
11 that we were tearing up coral or, I mean, I
12 don't know all the other "catch words" that
13 you use. But there's no reason.

14 So I ask you to go back and look at
15 this banning of bottom longline, in these
16 areas that the South Atlantic Council wants
17 you to complement, and somebody's got to come
18 up with something more than want.

19 I mean, it's almost similar to the
20 dolphin/wahoo plan that they come up with.
21 They wanted to put trip limits on the
22 commercials and there wasn't no biological,

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1 risk adverse, or anything in reason, and
2 National Marine Fisheries chose, the Secretary
3 of Commerce chose not to do that.

4 So I think when you go here, and you
5 have South Atlantic Council asking you to do
6 something on this particular issue, you need
7 to look a little harder, cause when you're
8 sitting there, reading their minutes of the
9 meeting, they were still trying, they were on
10 a fishing expedition to figure out how they
11 could get this done. And it's just not right.

12 And one last thing is these areas
13 here that you've labeled essential fish
14 habitat, I mean, it's almost basically the
15 whole range of where everything's fishing up
16 and down the coast. You know, if you go here,
17 hey, it's essential cause the fish is there.
18 I almost think it's going to be something to
19 come back, as Jim was saying, all of a sudden
20 you all say, "Oh, well, that's essential fish
21 habitat. We got to close it."

22 You know, based on catching one

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1 fish or something. But I would definitely
2 look in that South Atlantic Council. They
3 gotta come up with some reason why, a
4 definition better than just wanting. Thank
5 you.

6 MS. MERRITT: Yes; thank you. Just
7 to Dewey's comments, I think when you do read
8 the minutes, it might imply that there may be
9 some particular people who may be on a fishing
10 expedition, but, in general, the meetings that
11 I have attended, it's been more of inquiry,
12 looking for information, exploring
13 alternatives, and yes, we have different
14 opinions, just people coming from different
15 angles at it, and I think this asking for--
16 how'd you put it, Dewey?--that we were asking
17 HMS to--

18 MR. HEMILRIGHT: Complement.

19 MS. MERRITT: --complement it. I'm
20 not so sure it was, that we wanted it
21 complemented, so much as we wanted--because
22 HMS is an integral part of the MPAs as well,

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1 that we were asked the question, I'm not sure
2 where the question came from, but as to the
3 impacts of bottom longline, in particular, in
4 the MPAs, and in that regard, we did want to
5 have HMS involved in advising us, or at least
6 being involved in the decision making process.

7 Thank you.

8 MS. SCHULZE-HAUGEN: Yes, and just
9 to add to that, we have been talking a lot,
10 and have given a presentation to the council
11 and shared some of the information that we
12 have, and at this point, you know, Dewey, what
13 we have agreed to do is to consider them, and
14 that's what we'll be doing, and we'll be
15 looking at our own analysis of the information
16 that we have, and go from there.

17 MR. NEHLS: Don Nehls. One quick
18 thing. When Jimmy was asking you as far as
19 access, and stuff like that there, you said
20 that there wasn't any problems with access,
21 even if an area was deemed an essential fish
22 habitat area. Correct? Or not correct?

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1 MR. RILLING: That's correct. What
2 we would need to do, if we were--and I sort a
3 laid it out in my description of fishing
4 impacts. If we were at some point to make a
5 determination that fishing gear was having an
6 impact, a negative effect on habitat, then we
7 would--and that effect was determined to be
8 more than minimal and not temporary, and NMFS
9 habitat conservation has come out with
10 guidance on that as well, what that means,
11 more than minimal and not temporary--then NMFS
12 would need to propose measures to mitigate
13 that impact.

14 MR. NEHLS: And the mitigation
15 measure, say, for example, they found that
16 bigeyes were in danger and they were spawning
17 in the Mid-Atlantic, would it be no harvest
18 because the bigeyes--I mean, everybody
19 understand what I'm getting at with the
20 bluefin stuff in the Gulf, with the spawning
21 areas and that there. How much weight is this
22 going to have in the rulemaking?

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1 MS. SCHULZE-HAUGEN: But remember,
2 essential fish habitat, and it would be
3 minimizing fishing impacts to the habitat.
4 That's what is happening here. And we've had
5 EFH, for years, and those areas are not
6 closed, and we're simply reviewing the
7 boundaries of them.

8 MR. NEHLS: A few slides back, or
9 in the first or second slide in that thing
10 there, there's, spawning stock is listed in
11 that; no? Data collection.

12 MR. : [Off-mike remark]

13 MR. NEHLS: I thought I saw one
14 that had to do with spawning areas, this,
15 that, the other thing. There's nothing in
16 your--

17 MS. SCHULZE-HAUGEN: What we look
18 at for determining whether something is
19 essential is, you know, feeding, spawning,
20 there's a whole list of things that I'm sure
21 Chris remembers and I don't. So it's included
22 in that determination, of whether that habitat

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1 is considered essential, and that's, I think,
2 the link that other folks are talking about.

3 MR. WEBER. Rick Weber. I have
4 experience with EFH, and it's not pretty
5 experience because it's winter flounder and
6 does affect dredging. It's not just
7 federally-funded projects. It's federally-
8 permitted projects. And the supposed
9 consultation between two agencies simply
10 involved the local field office going, "No,
11 you can't have it. I checked my map and the
12 map says it's EFH."

13 There is no discussion of notes.
14 You know, as you were saying, Can't we get
15 some note in there? My experience is the
16 person who is going to implement this really
17 doesn't care what notes you put in there.
18 They're simply going to consult the map.

19 I don't think any of us would ever
20 want to impact truly essential fish habitat.
21 The fact of the matter is no one has ever seen
22 a winter flounder in Cape May. The biologists

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1 don't expect to see them in Cape May. But
2 when the model was run, they went, yeah, this
3 bottom's kind a like that bottom up there, so
4 we'll include it in. And when they did that,
5 just thinking this is more like its natural
6 range, it might go down here, there's been a
7 whole cascading of effects, that I don't think
8 the people who originally wrote the EFH
9 description intended.

10 I don't think those people said I
11 know how we can really screw with the marine
12 businesses of the Jersey coast. They had the
13 very best intentions in mind. And, you know,
14 when I went looking for an appeal process,
15 what I was told was, well, the corps doesn't
16 challenge NMFS and NMFS doesn't challenge the
17 corps on consulting issues. We just defer to
18 each other. So if NMFS says no, the answer is
19 no. And as I say, that no is being issued by
20 a field agent. It's frustrating.

21 I know you can't just go and ignore
22 Congress. You know, we can't be rid of EFH.

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1 But what I wrote down here, listening to Shana
2 and Ken, it seems that there's misnomers going
3 around, because the truly essential fish
4 habitat we are calling HAPCs. Everything
5 else is just its natural range. So I feel
6 like we've got some naming problems going on,
7 because an HAPC is the truly essential area
8 and everything else is just where it swims.

9 I guess my request would be that
10 you make the EFH as small as possible, because
11 despite your best intentions, you have no idea
12 how it's going to be extrapolated by any
13 agency. Thank you.

14 MR. WHITAKER: Rom Whitaker. And
15 several people brought up the point, and it's
16 a little bit scary to me. I guess if you
17 spend any time in the ocean, you've got to say
18 that sargasso grass and grass lines on the
19 western side of the Gulf Stream are certainly
20 essential fish habitat, and, you know, I drive
21 through 'em all the time. So it's a little
22 bit scary. You know, you say effect, and that

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1 does affect 'em. So that's essential fish
2 habitat, it's not the bottom, so I just want
3 to point that out.

4 MR. : Yes. In New England,
5 there's just been a proposal by several
6 environmental groups to establish about 15
7 MPAs, and they just happen to be the best
8 fishing areas in New England. Stellwagen
9 Bank, Jeffreys Ledge, all the major fishing
10 areas. We're constantly fighting Stellwagen
11 Bank, they're out there trying to shut the
12 bank down from fishing. So it worries me
13 that, you know, any--somebody'll take
14 advantage of any excuse to close you down.
15 And so I'm worried about it.

16 MR. HINMAN: Just on the sargasso
17 issue--Ken Hinman. Well, sargasso was
18 identified as essential fish habitat by the
19 South Atlantic Council, and the result of that
20 was that the harvest of sargasso was extremely
21 limited. But nobody is prevented from taking
22 their boats through it, or certainly fishing

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1 around it. In fact, that's the precise reason
2 it was designated EFH and was protected, so
3 that people could continue to use it as prime
4 fishing grounds. But it is prime habitat for
5 so many fish that people fish for, near
6 floating sargasso. But, you know, I
7 understand the concern about people taking
8 these things too far. But the point is to get
9 this information out there, so that we know
10 what does need to be protected from impacts
11 that we can control and what can't.

12 MR. RILLING: Thanks for all your
13 comments.

14 MS. SCHULZE-HAUGEN: All right.
15 Well, we've done a real good job catching up
16 on the agenda. If we want to keep going, I
17 think we could. If people want to take a
18 quick break at this point--ten minutes? Keep
19 going?

20 MR. : How long is the next
21 presentation?

22 MR. : [Off-mike remark]

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1 MR. : Okay. Five minutes.

2 MS. SCHULZE-HAUGEN: Five.

3 MR. : How about a five minute
4 break.

5 MS. SCHULZE-HAUGEN: Okay.

6 [A brief recess was taken]

7 MS. McLAUGHLIN: I'm Sarah
8 McLaughlin in Northeast Region, in Gloucester.
9 For each fishing year, NMFS prepares quota
10 specifications to implement the ICCAT-
11 recommended U.S. TAC, adjusted as appropriate,
12 by underharvest and overharvest for the prior
13 fishing year. Our plan is to propose effort
14 controls for the general and angling
15 categories, along with the specifications.

16 So the proposed rule would
17 establish initial quota specifications
18 consistent with the bluefin rebuilding
19 program, by allocating the 06 ICCAT-
20 recommended quota for the 2007 fishing year,
21 which it's a little different this year. It's
22 June 1st through December 31st, 2007.

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1 It's a seven month fishing year,
2 because we're moving back to a January start,
3 calendar fishing year, per the consolidated
4 HMS/FMP. So we intend to publish the proposed
5 rule later this month, hold a few public
6 hearings, depending on timing, with some other
7 HMS meetings and hearings, in at least
8 Gloucester, the Long Island area, and Morehead
9 City area. We intend to publish the final
10 rule by June 1st, and the 2008 specifications
11 for the calendar year, 2008, would be prepared
12 this fall, winter.

13 And we're aware that winter fishery
14 participants will want to know what's
15 happening with January 2008 as far as any
16 adjustment to the sub-quota and restricted
17 fishing days.

18 So at its 2006 meeting, ICCAT
19 recommended a Western Atlantic bluefin total
20 allowable catch of 2100 pounds--sorry--2100
21 metric tons to allow for continued rebuilding
22 through 2018. The TAC is inclusive of dead

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1 discards and will be in effect annually until
2 changed. So after deductions were made for
3 Bermuda, St. Pierre, and Mikilon [ph],
4 deductions for incidental longline catch in
5 the Gulf of Mexico and for bycatch in the
6 Northeast distant gear-restricted area, the
7 U.S. share works out to be about 1165 metric
8 tons.

9 Accounting for the 25 metric ton
10 NED set-aside, it's 1190 metric tons. that's
11 the total U.S. allocation. Compare this with
12 the 2002 recommendation of 2700 metric tons
13 for the Western Atlantic, and the total
14 adjusted allocation for the U.S. of 1465.

15 The ICCAT recommendation included
16 several provisions, including that contracting
17 parties limit their take of school bluefin to
18 an average of 10 percent of the initial TAC,
19 calculated on a four year basis. This is up
20 from 8 percent in the 02 recommendation.

21 We're at the beginning of a new
22 four year period, 2007 to 2010, and because

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1 the overall U.S. quota was reduced by 22
2 percent, but the cap on schools has increased,
3 we're talking about an equivalent amount,
4 because both 8 percent of 1490 and 10 percent
5 of 1190 equal 119.

6 As in the past, the ICCAT
7 recommendation includes a provision to
8 subtract overharvest from a contracting
9 party's TAC for the next year. This year,
10 though, in the future, underharvest may be
11 carried forward, capped at 50 percent of a
12 contracting party's initial TAC. Each year is
13 considered a new management period.

14 So 50 percent of 1190 is 595.
15 Therefore, the total maximum available for the
16 2007 fishing year, before accounting for dead
17 discards, would be the baseline plus the cap,
18 is 1785. But we must account for dead
19 discards.

20 And I note that in the FMP, each
21 category is capped at a hundred--rollover is
22 capped at a 100 percent of the category's

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1 baseline. In anticipation of the cap on
2 carryover, and in anticipation of substantial
3 underharvest for all the categories for 2006
4 fishing year, the U.S. agreed at ICCAT to a
5 transfer of 275 metric tons of its current
6 U.S. underharvest, as shown.

7 Based on these transfers, the
8 remaining amount of underharvest that could be
9 rolled, if we weren't capped, would be about
10 2100 metric tons. But there is a cap of 595
11 metric tons. So the transfer doesn't directly
12 impact the 2007 quota.

13 The recommendation includes a
14 provision to allow a contracting party to make
15 a one-time transfer within a fishing year of
16 up to 15 percent of its TAC to another
17 contracting party, consistent with domestic
18 obligations and conservation considerations.

19 If the situation arises, NMFS would
20 undertake the transfer via separate action
21 after considering a number of factors,
22 including how much would be transferred, the

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1 ability of U.S. vessels to harvest the TAC for
2 07 fishing year, potential benefits, etcetera.
3 Ecological impacts.

4 And the ICCAT recommendation
5 stipulates that the quota transfer may not be
6 used to cover overharvests, and that a
7 contracting party cannot retransfer that
8 quota.

9 So the proposed rule is necessary
10 to modify the baseline landings quota from
11 1465 to 1165, and to adjust the category sub-
12 quotas from those that are currently published
13 in the regulations.

14 The specs would be consistent with
15 the bluefin rebuilding program and they would
16 allocate the adjusted quota, that is, the
17 1165, among the domestic fishing categories,
18 based on the FMP allocation percentages. It
19 would allocate 25 metric tons to the longline
20 north NED sub-quota, and would allocate the
21 quota carryover as appropriate.

22 Since 1998, the ICCAT

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1 recommendation has included a 79 metric ton
2 dead discard allowance, with 68 metric tons
3 for the United States. This dead discard
4 allowance has been eliminated. So now the
5 Western Atlantic TAC and the U.S. quota is
6 inclusive of dead discards, and the estimate
7 of dead discards must be subtracted from the
8 available TAC for the 07 fishing year.

9 The best available estimate is from
10 2005, where we have complete information, and
11 the estimate is a 131 metric tons generated
12 via extrapolation of logbook tallies by pooled
13 observer data.

14 The proposed angling category sub-
15 quotas would be set as established in the FMP.

16 The school sub-quota can be no more than 10
17 percent of the total U.S. tax, so it's 119
18 metric tons, regardless of the amount that's
19 carried over for 2007.

20 According to the FMP, 18.5 percent
21 of that goes to the reserve within the school
22 sub-quota, and then the remainder is divided

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1 north and south, per the FMP percentages.
2 North and south with a break at Great Egg
3 Inlet in New Jersey.

4 The trophy sub-quota would be no
5 more than 2.5 percent of the adjusted quota,
6 that is, the quota that's adjusted for, with a
7 carryover, and would be divided, north and
8 south, as shown.

9 And then the remainder is assigned
10 to the large school, small/medium sub-quota,
11 and would be divided, again, per the FMP
12 percentages.

13 In 2006, the retention limit was
14 two large school small/mediums, that's 47 to
15 73 inches per vessel, per day or trip, all
16 season. In addition, one school bluefin, 27
17 to 47 inches, was allowed during two windows
18 for three weeks in July in the south, and then
19 in the north, late August to mid September.

20 The 2007 retention limit would be
21 consistent with the ICCAT recommended 10
22 percent cap on schools and would be intended

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1 to maximize opportunities, north and south,
2 within quota constraints. And we'll be
3 looking for comment on how best to do that.

4 Per the consolidated FMP, we now
5 have five general category sub-quotas. Fifty
6 percent goes June through August, 26.5 for
7 September, 13 percent for October and
8 November, a little more than 5 percent for
9 December, a little more than 5 percent for
10 January.

11 Because we're moving back to a
12 calendar year, NMFS may consider
13 redistributing the amount that would go to
14 January into the four time periods in the 2007
15 fishing year. I'd just note that the 2007
16 January fishery came out of the 2006 fishing
17 year quota.

18 We will include January information
19 for 2008 as part of the 2008 specifications,
20 which we plan to finish, like I said, in
21 fall/winter, this year, and we also plan to
22 work through the 2008 specifications process

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1 on determining the best approach to handle any
2 remaining underharvest at the end of this
3 December.

4 RFDs have been--restricted fishing
5 days have been used for several years now, and
6 are intended to extend opportunities, allow a
7 late season fishery, improve market
8 conditions, etcetera. Because of the low
9 availability of bluefin in the past few years--
10 -or sorry--last year, NMFS waived all the
11 restricted fishing days, cause they weren't
12 needed to pace the landings.

13 So this proposed rule, this year,
14 would establish an RFD schedule for 2007.

15 Based on general category landings
16 rates during the past few years, for June
17 through August, we know it's highly unlikely
18 that sub-quota will be filled at a default
19 retention limit of one large medium or giant
20 per day. In 2006, we adjusted from one fish
21 over 73 inches to three fish, to allow for
22 full use of that sub-quota.

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1 The 2007 retention limit would be
2 selected to maximize opportunities within the
3 quota constraints, and can be adjusted by in-
4 season action. As I mentioned earlier, we're
5 moving back to a calendar year, fishing year,
6 starting January 1st, and so because permits
7 could be effective for up to 19 months,
8 depending on when vessel owners renew in 2007,
9 we are considering some kind of administrative
10 change to allow a vessel owner the flexibility
11 to change permit category at the beginning of
12 the 2008 calendar year.

13 Once the proposed rule publishes,
14 we'll be collecting comment through the usual
15 directed e-mail box and through the federal
16 rulemaking portal, and any comments and
17 questions can be directed to me.

18 MS. JOHNSON: Thank you, Sarah.
19 Gail Johnson. I had a hard time listening to
20 the rest of the presentation after seeing the
21 accounting for dead discards, and we've put
22 this on the record before and I'm going to do

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1 it again. As inappropriate as it used to be
2 to have zero dead discards for longliners in
3 areas that had no observations, it is exactly
4 as inappropriate to assign the same rate or
5 rate of dead discards to areas because of
6 raising and pooling. It just doesn't work.

7 Really, if I were another person,
8 if the bluefin were around here, and suddenly
9 the longliners, by fiat, were assigned all,
10 you know, this amount of dead discards, I'd
11 feel like there was a bull's-eye on my back
12 more than there is, and I'm really surprised
13 that we've gone back to this method.

14 MS. McLAUGHLIN: Well, just a
15 little background. The methodology was peer
16 reviewed and was submitted to SCRS for the
17 bluefin tuna assessment last year.

18 MR. : [off-mike comment]

19 MS. McLAUGHLIN: I'm just saying
20 that the methodology has been peer-reviewed
21 and was the reason that once that reprocess
22 was complete, that last year, for the bluefin

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1 tuna assessment, that is what was submitted to
2 SCRS. So it's what was already been submitted
3 to ICCAT based on that methodology.

4 MR. : On this issue, first,
5 that's accurate, what Margo was saying, but I
6 do think we're going to have to talk to the
7 ICCAT advisory committee a bit more about this
8 issue, cause as Gail points out, there is a
9 long history to it. The industry has always
10 objected to the pooling extrapolation method,
11 and, in fact, we wrote an agreement, several
12 times, at ICCAT, saying that for quota or
13 counting purposes, we would use the logbook
14 tallies.

15 And in Croatia, when this issue
16 came up, we talked very specifically on the
17 U.S. delegation, that again, we were willing
18 to make the switch to not having a pool for
19 the discards but that each country would count
20 its own, but we made it very clear in the
21 delegation, that we were talking about
22 continuing with that management agreement,

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1 that we would use the logbook tallies to count
2 the quota, and in fact the rest of the
3 negotiations on bluefin really kind of--
4 including some of the give-aways that we did,
5 were knowing that we were--or counting on the
6 fact that we were going to continue to use the
7 logbook tallies.

8 So, clearly, you know, we're pretty
9 disappointed that it's not there, but I do
10 think it's a subject more for the ICCAT
11 advisory committee. I think it goes to the
12 core of how we operate as a delegation,
13 whether we can rely on understandings that we
14 have, real time, while the meeting is going
15 on. To have to come back and report a change
16 to what I informed the entire membership
17 about, was going to be the status quo in terms
18 of counting discards, is quite hard and
19 awkward, and, you know, I don't think it
20 fosters good working relations on the
21 delegation to move this way, and I'd like to
22 ask if Dr. John Graves, who's the chair of the

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1 committee, has the same understanding that I
2 had, and that we talked openly about, in the
3 delegation room, on this issue.

4 And then I have some additional
5 questions. Okay? I'm sorry to put John on
6 the spot, if he's here.

7 DR. GRAVES: Yeah. I'm here, Rich.

8 I recollect we had a very detailed discussion
9 of this in the delegation meeting, and Hogarth
10 was physically present. I won't go any
11 further than that. He had a lot of things
12 going on, chairing not only our delegation but
13 the commission meeting as well.

14 But I think what we're looking at
15 is a process here, where we are negotiating at
16 ICCAT, we've used certain measuring sticks,
17 historically, providing data, and now we're at
18 a point where we might be changing how we're
19 doing that.

20 And in the case of the bluefin tuna
21 discards, extrapolation procedure, Rich was
22 right, that it was brought up and that there

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1 was agreement that it would be done with
2 direct counts, not with an extrapolation.
3 That was the delegation's, essentially the
4 consensus of the delegation at the time, and
5 when we discussed that, we also discussed a
6 sort of analogous situation with billfish,
7 where the United States actually reports two
8 different figures to ICCAT.

9 When we originally agreed, in the
10 year 2000, to cap our recreational landings at
11 250 blue and white marlin, we did so based on
12 the information the Southeast Fisheries
13 Science Center in the U.S. had been submitting
14 to ICCAT, which had simply been a cursory
15 survey of the recreational billfish survey,
16 and so no real intent to actually summarize
17 the landings that were occurring along the
18 coast.

19 And so based on historical data, we
20 said 250 fish would more than account for the
21 tournaments and the recreational landings. It
22 turns out, after we got back, and there was

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1 some more investigation done, that that's
2 really not the case. That we find out that
3 what we'd been reporting to ICCAT missed the
4 entire, sort of the nontournament sector of
5 landings, and some extrapolations might put
6 that as a fivefold difference, in which case
7 we'd be shutting down our landings very early
8 into the season, or having to go to extremely
9 large minimum sizes, some way of reducing the
10 landings.

11 And so what we do now, as you know,
12 is we report the recreational billfish survey
13 statistics, the direct report from the
14 tournaments, as well as any billfish that is
15 called in, or put in through the Web. And
16 that's what we put in it for our compliance,
17 so we're using the same metric, the same
18 measuring stick that we used originally, that
19 was based for our 250 cap, we're measuring it
20 that way.

21 But in our task one data, our total
22 recreational catch, we report the extrapolated

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1 figure, which would be probably more
2 appropriate for doing the stock assessment.
3 And so it's not unprecedented for us to have
4 two faces in this, and I think that what Rich
5 is talking about is just a change that was
6 made, with an agreement, although how official
7 of an agreement it was that Bill had with the
8 delegation, I'm not sure, but it certainly--it
9 was discussed, that the direct encounter
10 reporting would be better for the bluefin
11 discards. I'll leave it at that.

12 MR. : Now if I can finish. No,
13 I'm going to move on from that topic. I do
14 think that is better discussed at the ICCAT
15 advisory committee at this point.

16 A question, Sarah. I guess I don't
17 understand the numbers right now, and it might
18 just be a simple thing that I'm missing. On
19 the baseline quota allocations, you have the
20 total at 1,165, and I understand the 25 tons
21 that's being held out for the distant water.
22 But where's the rollover, the 595? It's not

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1 in the reserve. You have the reserve at 29
2 tons.

3 MS. McLAUGHLIN: Right. This is
4 just the baseline. I'm just showing the FMP
5 breakout. That would be applied to the
6 baseline--

7 MR. : Oh, okay. But it's not
8 even in--oh, I see. So it's not showing in
9 the reserve. Your intent was not to show it
10 in the reserve, either, right now. So--

11 MS. McLAUGHLIN: Right. This is
12 just the baseline in this table, the point
13 being that the FMP breakout for the categories
14 would be applied to the new 06 recommended
15 baseline quota, and then we will deal with the
16 carryover, but I don't have that information
17 in this presentation since we don't have a
18 proposed rule out yet.

19 MS. SCHULZE-HAUGEN: There's a
20 later slide that has the total number.

21 MR. : Right; right. I mean,
22 where the reserve--or I'm sorry--where the

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1 underage gets divided up, domestically, is
2 obviously a very crucial question for the
3 public.

4 MS. McLAUGHLIN: Right.

5 MR. : Before you go to the
6 public, you need to see that. It's
7 particularly important for the angling
8 category, 10 percent, the former old 8 percent
9 rule, whether or not they're getting, you
10 know, their 10 percent of the rollover. But
11 the other issue that comes into play now is
12 the 100 percent domestic rule, and Dewey, in
13 your preliminary look at these numbers, did
14 anybody lose any--did any category, any of the
15 five categories lose any quota going into 2007
16 by the domestic 100 percent cap rule? That's
17 my question.

18 MS. SCHULZE-HAUGEN: I think the
19 560 percent carryover trumped all of that, and
20 so--we'll doublecheck, but I don't think that
21 came into play at this point, because so much
22 of the carryover is already gone.

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1 MR. : Okay. So we lost--any of
2 the categories that had more than a 100
3 percent rollover going into 2007, lost it vis-
4 a-vis the 50 percent. All right. I guess at
5 some point we're going to have to talk about
6 the policy that you're using to--or the
7 criteria you're using to move, to say that
8 this group is contributing this amount of
9 quota into overage that's being lost due to
10 the 50 percent ICCAT rule. Okay.

12A 11 If, for example, the purse seine
12 (phonetic) category was about to roll over, a
13 130 percent of its quota, or something like
14 that, they could ask the question, did they
15 contribute more than the 37 percent to the
16 ICCAT?

17 MR. : [Off-mike remark]

18 MR. : I know you know what I'm
19 getting at but it's a little bit hard to do--
20 without seeing some examples of it on paper,
21 it's going to be hard to figure out. But
22 believe me, when you get to public hearings,

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1 you know, we're going to have to have a clear
2 explanation of the relationship--let's leave
3 it at that--of the relationship between the
4 ICCAT 50 percent rollover cap and the domestic
5 100 percent rollover cap.

6 MS. SCHULZE-HAUGEN: Okay. But
7 just to clarify, you know, we are bound to
8 implement the ICCAT recommendations, so that
9 comes home, and, you know, that's what's at
10 play at this point.

11 MR. : Okay. Just a couple
12 more. The change back to the fishing year,
13 are there any quota implications to that at
14 all, except for the North Carolina January
15 fishery?

16 Are there any quota implications to
17 that at all, except for the North Carolina
18 January fishery?

19 MS. McLAUGHLIN [?]: Well, just
20 that the quota is available in a seven month
21 period instead of a twelve month, because it's
22 compressed.

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1 MR. : Can you explain that
2 again.

3 MS. McLAUGHLIN: Well, we have the
4 2007 quota, that is now going to be available
5 for a seven month period, from June through
6 December, and then starting in January, we'll
7 be operating under a 2008 quota. So we have
8 more quota in a shorter amount of time. Or
9 the quota is in a shorter amount of time.

10 MR. : Do you have what was
11 landed by the group? How much of the quota
12 was caught, on any of the slides?

13 MS. McLAUGHLIN: It will be in the
14 proposed rule. It's not in the presentation.
15 The most recent thing we would have is the
16 last landings update.

17 MR. : Okay. The only reason
18 I'm getting at that thing there is it seems
19 like there's a lot of flexibility between the
20 angling and the general category stuff, but I
21 don't see any flexibility between those guys
22 and the longline.

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1 MS. McLAUGHLIN: What do you mean
2 by flexibility?

3 MR. : Well, if you go back a
4 few slides there, it seems like there's a lot
5 of flexibility to take and shift stuff around,
6 change the way that the general category
7 fishes, or the retention limit for the general
8 category as the season goes on.

9 But I don't see any of that for the
10 distant water, the longlines guys.

11 MS. McLAUGHLIN: Well, the
12 regulations are set up, that we have the
13 authority to go from zero to three within the
14 general category, and I think there's a
15 similar provision for angling. There's
16 regulatory limits, but within that, there is
17 some flexibility. For longline, there's the
18 target catch requirements that are at play.

19 Are you asking for that kind of--

20 MR. : [Off-mike remark]

21 MS. McLAUGHLIN: We had
22 underharvest in all categories.

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1 MR. : [Off-mike remark]

2 MS. SCHULZE-HAUGEN: So you're
3 asking for adjustments to the target catch
4 requirements on--

5 MR. : [Off-mike remark]

6 MS. SCHULZE-HAUGEN: I'm sorry.
7 Did you just say adjust the, like the
8 percentages, the quota between categories?

9 MR. : [Off-mike remark]

10 MS. SCHULZE-HAUGEN: Just within
11 the category?

12 MR. : For the longline boats,
13 we have our catch criteria. It's X number of
14 fish for X number of weight in the fish hold,
15 and it goes on and on, up to a maximum of
16 three fish per trip on 30,000, or whatever the
17 weight is. But if you see, as the season goes
18 on in this thing, and no one else is even
19 close to their stuff, what would be the
20 problem with bringing that towards the
21 longlining side of it but change the catch
22 criteria for the longline vessels, so we

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1 weren't stuck under that three fish cap?

2 Or, you know, that 30,000 number
3 that you've got to do.

4 MS. SCHULZE-HAUGEN: Well, I think
5 one point to remember, too, is that the
6 longline category is not a directed fishery,
7 and that's something that the target catch
8 requirements are designed to do, is to
9 balance, you know, a reasonable level of
10 target catch for what should be an incidental
11 capture of a bluefin, so--

12 MR. : The only reason that the
13 longline fishery isn't a directed fishery for
14 bluefin tuna is because of the way that the
15 catch criteria is written.

16 MR. DePERSIA: Tom DePersia,
17 Stellwagen Bank Charter Boat Association. Do
18 you have any idea when the proposed rules will
19 come out? My customers are ringing the phone
20 off the hook here, trying to book trips and
21 wanting to know what the limits are, and when
22 the season's gonna be. Do you have any idea

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1 when that's gonna be, and is it possible to
2 make a guesstimate as to what it's gonna be in
3 terms of the angling quota?

4 MS. SCHULZE-HAUGEN: Our target is
5 the next couple of weeks, and we're working on
6 it as fast as we can. At this point, I
7 wouldn't want to guess. So I would have to
8 ask you to wait a couple more weeks.

9 MR. DONOFRIO: Thank you. Jim
10 Donofrio. Sarah, thank you for the
11 presentation. I have a question. We're going
12 to meet again next week, our ad hoc tuna
13 committee, and I know that we always provide
14 the Agency with a consensus from charter boat
15 operators, private vessels up and down the
16 coast, it's going to be a fairly good size
17 meeting this year in Ocean City. Apparently
18 it looks like we're getting 229 as a base
19 right now. Is that what it is? Is that what
20 it says? 229?

21 MR. : Yes.

22 MR. DONOFRIO: 229, five. And

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1 going back to what Rich said, can we
2 anticipate a carryover of 10 percent on that
3 595, so we can at least try to figure out what
4 we're going to have there when we come back to
5 you with some proposal?

6 MS. McLAUGHLIN: Sorry. Are you
7 talking about the 10 percent limit on schools
8 now? That 10 percent is 10 percent of the
9 initial TAC, regardless of how much is carried
10 over. So school bluefin are limited to 119
11 metric tons. Where a carryover would be seen
12 would be in the large school, small, medium,
13 and the trophy, because it'd be 2.3 percent of
14 the adjusted angling category quota and then
15 the remainder goes to large school
16 small/mediums.

17 MR. DONOFRIO: Okay. So what would
18 that percentage be of that 595 that we're
19 looking at, if we had to do an estimate? Just
20 for our, you know, sakes, next week, working
21 on this thing?

22 MS. SCHULZE-HAUGEN: Well, that's

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1 something that I think we're still working on
2 and will be in the proposed rule, for sure,
3 and so I think at this point we don't have a
4 hard answer for you. But, you know, it is
5 something that is available to the U.S. So I
6 think we can--we'll work with that.

7 MR. DONOFRIO: Thank you.

8 MR. : A couple a points. To
9 Jimmy's point--not that I need to be helping
10 him on this issue, necessarily--we may
11 reconsider this a little later! But the ICCAT
12 agreement, I don't believe it--and I could be
13 wrong--but I don't believe it speaks to the
14 fact that the 10 percent rule is limited to
15 the initial base quota. It's 10 percent of
16 the U.S. quota. So I would think that if the
17 decision were made to split the underage
18 according to the percentage each category gets
19 now of the base quota, then the 10 percent
20 rule, the angling category and that 10 percent
21 would be presumably higher. But I'll let him
22 worry about the intricacies of that.

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1 Just to make sure, even though the
2 reserve now says 29.1, it's really 29 and 595
3 tons that are in there. We can assume that
4 we're going to deal with that issue before the
5 season starts. But there's 595 additional
6 tons that are in there. Okay. The final
7 point I wanted to make is we're going to go
8 through this battle again, about pooling
9 versus logbook, and depending upon where that
10 comes out, if you win, obviously, you can see
11 what you're doing to the longline category.

12 You're estimating dead discards
13 higher than their allocation and quota, and
14 what that means to us is we need to find a
15 much more reasonable balance between the
16 actual interaction of longline gear and
17 reconsider this incidental trip limit, which
18 is now forcing regulatory discards, and that
19 needs to be done fairly quickly, especially
20 dependent upon the outcome of the next round
21 of discussion over the pooling methodology.

22 MR. WHITAKER: Rom Whitaker. Just

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1 a couple a points, and I wish Pete was here,
2 he could probably make 'em. But I was a
3 little bit confused. For 2007, which the
4 specs are going to come out this year, it
5 breaks down, and I think you said 5 some
6 percent for December and 5 some percent for
7 January. That would be January 2008.

8 So does that 5 percent--do we catch
9 that, and in December give us ten, and then we
10 start with the new 5 percent for 2008? Or
11 which 5 percent are we getting for January?
12 And then I've got another question.

13 MS. McLAUGHLIN: January 2008 would
14 have its FMP percentage of the baseline. So
15 there is going to be at least 5.3 percent in
16 January 2008. What I was talking about here
17 was because we have seven months to distribute
18 the 2007 quota, it ends in December, the
19 amount that would go to January, if our 2007
20 quota recommendation were going to be used
21 through that time period, we could
22 redistribute that amount, so that each of the

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1 June through December periods this year gets a
2 little bit, a little piece of that, which
3 would normally go to January, and then in
4 January 08, there'd be the baseline 5.3
5 percent of the 08 calendar year, fishing year
6 quota.

7 MR. WHITAKER: Okay. In other
8 words, the 5 percent gets distributed amongst
9 the seven months, if I understand you right.
10 The second point is--well, it's certainly been
11 discussed today about giving away quota,
12 giving away quota, and here we sit, with the
13 four month closed season on bluefins, with
14 mega quota out there, and the fish are out
15 there and yet we're closed down.

16 So I know this has been discussed
17 before but maybe now is a good time to bring
18 it back up.

19 MS. SCHULZE-HAUGEN: Well, just a
20 point for folks--not all categories are closed
21 now, but I take your point for general
22 category.

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1 MR. : Two things. First, I
2 have to support what the honorable delegate
3 from New Hampshire raised, his point about the
4 10 percent. That's how they would address it
5 at the ICCAT meeting. And secondly, I'd just
6 like to point out that we put together a grant
7 proposal to do bluefin tuna, length and weight
8 measurements this year, and I'd like to just
9 inform everybody that we are proceeding on
10 that.

11 Actually, hopefully, we'll be
12 getting--we're getting some fish in North
13 Carolina, and it's a cooperative effort with
14 HMS and with the LPS, with Sea Grant in New
15 York, Sea Grant-New Jersey, the State of
16 Maryland, the State of North Carolina. So
17 we're pretty excited about getting, hopefully,
18 a lot of length, weight data, so we can
19 address that issue that was controversial the
20 last couple years about the conversion factor.

21 MS. SCHULZE-HAUGEN: Speak of the
22 devil, Ron Salz just walked in. We were just

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1 talking about the length, weight study.

2 MR. : I didn't know if you were
3 addressing me or not, but yes, there are some
4 being caught. But I also like Rich's comments
5 about the 10 percent rule. That would
6 certainly help my counterparts up the line,
7 and probably in my area too.

8 MR. : Just further to Rom's
9 comment about, you know, being shut out of the
10 fishery for four months right now. Only in
11 the United States would you--and we've been
12 saying this for the last three years. When
13 you have a fishery that has declined, for
14 whatever reason that it's declined right now,
15 and you have a fairly large bureaucratic
16 regime in place that has trip limits, seasons,
17 incidental catch limits, size limits,
18 duplicative size limits, and you're not
19 catching your quota, and you have two major
20 laws that say you need a reasonable
21 opportunity to catch your quota, you can make
22 the argument that almost every one of these

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1 restrictions that we look at flies in the face
2 of the law and we should be fishing, pretty
3 much in each category, year-round, as the fish
4 present themselves, in order to have a
5 reasonable opportunity to catch our quota.
6 And yet, clearly, we probably have--not
7 clearly--absolutely, we have the most
8 restrictive regime for bluefin tuna in the
9 world.

10 MR. : I wanted to bring a
11 return to the 131 metric ton dead discards,
12 and if people, just for the purpose of
13 discussion, forget about arguing over whether
14 that number is accurate or not, I think--I was
15 in the delegation meetings that Rich and John
16 recall, and I recall the discussion the way
17 they do, but I don't think we really discussed
18 the issue of which counting methodology was
19 the most true, and I think just as the
20 industry thinks the extrapolated method is an
21 overestimate, I have no doubt that relying
22 just on the logbooks creates an underestimate,

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1 so maybe the real number is somewhere in
2 between.

3 But what I'm interested in about
4 that number is what can you tell me about
5 those fish. Where were they caught, when, and
6 what size? I mean, do you have that kind of
7 information, or is it because it's
8 extrapolated, you don't know?

9 MS. SCHULZE-HAUGEN: Me,
10 personally? I don't know. That's a number
11 that we receive from the Southeast Fisheries
12 Science Center. It is a number that I can try
13 and track down and get more information on for
14 you, though.

15 MR. : Yes. I would like that
16 information. Thank you.

17 MR. : Just a short note, that
18 it would have been helpful to have this just a
19 couple hours ahead of time. Then we could
20 have been more organized in our comments,
21 probably. The document--the handout, the
22 handout. Thanks.

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1 MS. SCHULZE-HAUGEN: Well, the last
2 thing on the agenda would be public comment
3 and I think we do have a member of the public.

4 So we could open it up for that. Another
5 option would be to continue--I mean, the
6 comment wasn't necessarily on bluefin specs.
7 It was more for everything in the day, and we
8 can continue on. I think if we're interested,
9 and folks want to stick around, we could move
10 on to the circle hook proposed rule. If
11 that's your preference, I think Randy would be
12 ready to go. If you're tired, it has been a
13 long day, and then we can just have--if the
14 gentleman's interested in speaking and then
15 move on.

16 MR. : [Off-mike remark]

17 MS. SCHULZE-HAUGEN: Public
18 comment. Then move on? Well, I would rather
19 try and keep it at the end of the day, unless
20 there's--just because there may be additional
21 public comment on the next action.

22 MR. : Margo, it's not a

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1 comment, actually; it's a request. The circle
2 hook issue was driven, in large part, by the
3 overfished condition of white marlin. Maybe
4 it would be logically more consistent if we
5 first discussed white marlin, and then took up
6 the circle hook issue. If that's a
7 possibility, I'd ask that we do that.

8 MS. SCHULZE-HAUGEN: You're talking
9 about the status review discussion?

10 MR. : Correct.

11 MR. : Margo, my only concern
12 would be if the public has here for a
13 particular time period, and make sure that
14 they are accommodated, you know, before they
15 have to leave, too. But I agree with what
16 Russ just said.

17 MS. SCHULZE-HAUGEN: Okay.
18 Actually, there's at least one other
19 gentleman. So members of the public, do you
20 have a preference? Do you have a desire to
21 speak? Do you want to speak now or do you
22 want to speak later? I think there's at least

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1 another--over here. Do you have an interest
2 in speaking? If you would state your name for
3 the record, please.

4 MR. KOZAK: Phil Kozak, RFA, NFA.

5 I want to comment on the bluefin
6 tuna. My first question is, that 229 metric
7 tons, are we going to take the 119 metric out
8 of there and leave us 109 metric ton for large
9 school, small/medium? And is there an
10 overage, because that fishery is still open
11 with two per day right now, and I just wonder,
12 have we found out how many fish we've caught--
13 oh, I'm sorry.

14 [Microphone adjustment]

15 MR. KOZAK: That's my first--I have
16 another comment, but I'll let you answer that,
17 and let me go on to the next thing when you're
18 done.

19 MS. SCHULZE-HAUGEN: Okay. I
20 believe the 229 is the total allocation for
21 the angling category, which does include the
22 school limit, and so the percentages that

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1 Sarah ran through, and maybe we can get back
2 up, apply to that, and the school limit is
3 within that.

4 MR. KOZAK: But then we can have
5 the overages or the underage transferred to
6 our large school, small/medium; is that
7 correct?

8 MS. SCHULZE-HAUGEN: The underage,
9 or the remainder?

10 MR. KOZAK: Well, if we have quota
11 left at the end of this year, being that it's
12 still open, we haven't closed, I have to
13 assume that we have an underharvest right now.
14 Otherwise, you would a closed it.

15 MS. SCHULZE-HAUGEN: Yes. There's
16 still available quota; yes.

17 MR. KOZAK: All right. Now my
18 recommendation. Because the Agency does not
19 believe that the reporting of the angling
20 category is correct, and that they feel that
21 the private sector is only providing--is 10
22 percent inaccurate, my suggestion would be

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1 that they allow the charter boat industry,
2 because it's a proven fact that they catch 60
3 percent of the allocation, so when they hit
4 their 60 percent, hundred, close the fishery
5 and don't worry about what the private guys
6 are doing, because there's a 60 percent value
7 there. Maryland's factors show that that's
8 what occurs, that the angling category,
9 private, recreational, catch about 40 percent
10 of the quota, and the charter boat industry
11 catch about 60 percent.

12 So if that's the fact, the charter
13 boat industry is more responsible, and you
14 guys can watch it a lot closer cause they've
15 got to report every catch, and therefore you
16 can monitor the season and the data much
17 better. So that would be my recommendation to
18 solve the problem of not knowing what the
19 actual catch data is. Thank you.

20 MS. SCHULZE-HAUGEN: Okay. Well,
21 thank you very much.

22 In terms of the next presentation

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1 that we'll do, I know that Randy was ready to
2 go but I'm not sure if Stephanie was.
3 Stephanie is. I got a "thumbs up."

4 MR. : [Off-mike remark]

5 MS. SCHULZE-HAUGEN: Yes.

6 MR. : [Off-mike remark]

7 MS. SCHULZE-HAUGEN: The white
8 marlin status review first.

9 MR. : [Off-mike remark]

10 MS. SCHULZE-HAUGEN: Nods in
11 agreement. Okay. Stephanie, come on up.

12 [Pause]

13 MS. SCHULZE-HAUGEN: We got it,
14 actually. I'm sorry. I thought Stephanie's
15 presentation had been distributed, but it
16 hasn't, and so we will do that right now.

17 MS. BOLDEN: Hi. Thank you for the
18 invitation to come to your meeting. I'm not
19 sure if you extended it, or Margo, but I
20 appreciate the opportunity to come and let you
21 know a little bit about an Endangered Species
22 Act action that's going on right now.

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1 So we need to switch from Magnuson
2 to Endangered Species. I work for the
3 Protected Resources Division at the Southeast
4 Regional Office in St. Petersburg, and the
5 tool that we use is the Endangered Species
6 Act.

7 So I wanted to come and give you an
8 update about a status review that we've
9 initiated for the white marlin. There's a
10 little bit of background on the screen right
11 now, but basically, in 2001, we received a
12 petition, which is a mechanism under the ESA,
13 that people can ask us to look at the status
14 of a species and consider it under the
15 Endangered Species Act.

16 We went through that process, we
17 came with a determination, and we were
18 subsequently--met the litigant, in court, and
19 we ended up with a settlement agreement, where
20 we agreed, after the 06 ICCAT stock
21 assessment, to revisit the issue and
22 determine, again, if we needed to list this

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1 species under the Endangered Species Act.

2 So as you can see with the big
3 arrow, that is where we're at right now. We
4 have the settlement agreement, we have a
5 timeline, we have a date, and come December
6 31st of this year, we need to publish into the
7 Federal Register a determination under the
8 Endangered Species Act.

9 So what we've done is the process
10 that we use to go through this analysis is
11 called a status review, and we have some
12 guidelines about how to do that, and we get a
13 group of folks together that are experts in
14 the field, and we go through the act of
15 reviewing all the available information.

16 Under the Endangered Species Act,
17 we're charged to use the best available
18 commercial and scientific data available to
19 us. So we already did step number three, we
20 solicited information from folks, which I'll
21 talk about a little bit more. So we have the
22 ICCAT information, we have the 2002 status

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1 review which we conducted, we have recent
2 literature from both the ICCAT and Bulletin of
3 Marine Science, and some other sources that
4 we're looking at.

5 Now within the status review
6 document, we usually do number four. We
7 assess the status of the species and then
8 somehow we need to look at the potential
9 threats to the species, and we assess the
10 danger of extinction.

11 And the statute gives us guidelines
12 on how to do that, and they're usually called
13 the ESA listing factors.

14 The first thing I put up there, I
15 think we need to touch on for a minute. First
16 is after the 1982 amendment to the Endangered
17 Species Act, Congress specifically sorted out
18 the impacts of economics in a listing
19 determination.

20 We cannot consider economics when
21 we determine if we need to list a species.
22 Later on, if, big "if," a species is listed,

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1 then we think about economic considerations,
2 if we do something called critical habitat,
3 which is an entirely separate rulemaking
4 procedure. So right now, when we're looking
5 at the status of a species relative to
6 potential listing under the ESA, we cannot
7 look at economic impacts. It's solely the
8 biological information that we have.

9 When we look at potential threats
10 to the species, I have listed in italics the
11 different categories that we're charged to
12 look at, and as you can see, they're pretty
13 specific until you get to number five, which
14 is pretty much a catch-all that we can throw
15 anything in that might come up.

16 So like I said, any threats, we
17 have to put them in one of these boxes. And
18 it's not that hard to do. So those are the
19 ESA listing factors that we need to think
20 about.

21 Potential outcomes. We have three
22 choices after we go through this review

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1 process. We can say not warranted. That is,
2 the species is not in danger of becoming
3 threatened or endangered based on those
4 listing factors. Then we have the threatened
5 or the endangered, and that just means what
6 timeline do you think the species might become
7 imperiled. It's a staging category.
8 "Threatened" is farther off into the future
9 than "endangered."

10 And there's subsequent requirements
11 for us, under the ESA, if something is
12 threatened versus something is endangered,
13 which we'll touch on in a minute.

14 I just did want to note, under
15 "endangered," there is this little exclusion
16 for insects, so it doesn't really apply to us,
17 but there is a exclusion for pests. So don't
18 worry about them if they're in the backyard.

19 So like I said before, in 2002, we
20 went through this process and we had a status
21 review, and after we have a status review,
22 NMFS than takes that report from the status

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1 review team and it does a separate analysis, a
2 separate determination, and that's what we
3 meld together in order to get our
4 determination, and, in 2002, we came up with a
5 "not warranted" determination, that the
6 species did not meet any threatened or
7 endangered status based on those listing
8 factors.

9 And in the Federal Register notice,
10 which I have the citation up here, these were
11 the reasons why that team came up with that
12 determination, and they all link back to those
13 listing factors that we have.

14 So there was no curtailment in
15 range, it still was across the same geographic
16 area. That it was declining but it was not at
17 risk of imminent extinction, which meant it
18 didn't meet the threatened status. No
19 predation. No disease. It did talk about how
20 the USA accounts for only a small percentage
21 of the bycatch. And we'll come back and talk
22 about that again. And then it didn't find any

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1 other factors that might affect its continued
2 existence.

3 So here we are in 2007, and this is
4 what we've done so far. We had a Federal
5 Register notice, where we said we were going
6 to conduct the status review, and we solicited
7 information from folks on a host of queries,
8 and just other information about the status of
9 our threats to the species.

10 From that we receive 15 responses.

11 We had information about the roundscale
12 spearfish sent to us. We had comments on the
13 2006 stock assessment and what people thought
14 of that. We had information from tournament
15 and from fishing organizations, and the
16 litigants sent us a letter, reminding us of
17 our previous shortcomings, and gave us some
18 more information about what they thought might
19 be new threats to the species that we needed
20 to think about.

21 We have formed a status review
22 team. The status review has met once. We

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1 have a second meeting planned in April, where
2 we have already identified some experts who
3 have current and ongoing research that might
4 help us to better understand the biology of
5 the species. We've invited them to come and
6 give us a presentation. We have some stock
7 assessment experts to come, to talk to us
8 about the 02 stock assessment versus the 06
9 stock assessment, and we have some additional
10 meetings planned for the summer, just
11 depending on--the number depends on how
12 quickly we work and get our job done.

13 And we do intend to have this go
14 out for peer review, as we have before. Once
15 this is all said and done and the status
16 review is completed, then, once again, NMFS
17 will take that status review, do a separate
18 analysis and determination, and publish the
19 outcome in a Federal Register notice, and that
20 is due December 31st of 07, and that's by a
21 settlement agreement. So that date is set in
22 stone.

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1 And we have to decide, one of the
2 three choices. Not warranted, threatened, or
3 endangered. So we have to come up with that
4 determination. I put this slide together
5 because I wanted to acknowledge that we do
6 understand that there's a huge international
7 component to white marlin. It's distributed
8 throughout the Atlantic, as we all know, you
9 guys know better than I do, probably, on that,
10 and at last count, 27 countries reported it in
11 their catch. So we understand that.

12 However, the ESA is for the United
13 States and it's United States citizens. And I
14 have some quotes here about the broad language
15 that the ESA has about the responsibilities of
16 U.S. citizens in non-U.S. waters.

17 So I understand all those things
18 are going on, and we recognize them, and we
19 will put them in the status review, but we
20 have to remember that we are working under
21 Endangered Species Act and those listing
22 factors, and that's our mandate.

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1 So while I understand the box is
2 very big, we have a different box that we have
3 to work with under the ESA. So those issues
4 are on the table, we understand them, we
5 recognize them, and we will deal with them as
6 best we can.

7 So as I said before, December 31st,
8 Federal Register notice, here are our choices.

9 We can again come up with a "not warranted,"
10 and if we come up with a not warranted, that
11 will be a simple Federal Register notice
12 saying here's the status review, it's
13 available, you can download it, and these are
14 the reasons why we have come up with a "not
15 warranted" determination.

16 If it comes out to be a threatened
17 or endangered listing, then the process is
18 different under the Endangered Species Act.

19 I have number one there with an
20 asterisk because that can happen, or it might
21 not happen. We can either put out a Federal
22 Register notice saying this is our

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1 determination and here's the status review.
2 We're working on a proposed rule. Or we can
3 just go right to number two and say, here's
4 the status review, here's the determination
5 and here's a proposed rule.

6 In either case, if there's a
7 proposed rule, we always have public hearings,
8 we always have public comment periods, and all
9 that. Federal rulemaking. AP, things happen.

10 So in no case will you be surprised with a
11 final rule, if it meets a threatened or
12 endangered status, without having
13 opportunities to comment, and that. That's
14 how our rulemaking process works.

15 We have mandate that tell us within
16 12 months of a proposed rule, we have to go
17 final, and the final rule can agree or
18 disagree with the proposed rule. So that's
19 how that all works.

20 I put some other information here
21 about potential outcomes with the process. If
22 something is threatened under the Endangered

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1 Species Act, we have the latitude to exclude
2 "take" in certain circumstances, and provide
3 exemptions, and we use that, very broadly, in
4 every circumstance. So we do have that
5 latitude with a threatened species. We do not
6 have that latitude with an endangered species.

7 And I don't want to scare anybody,
8 because there are three options and I'm not
9 jumping to any conclusions or predetermining
10 the outcome or anything. I just want to let
11 you know that these options are on the table
12 and these tools are things in our tool box,
13 that we're going to use, that you might not be
14 aware of.

15 Any time we list a species, after
16 we list the species, we're mandated to
17 designate critical habitat, which is kind of
18 similar to essential fish habitat, but it has
19 specific ecological and biological factors
20 that have to be considered, and that is where
21 we do take in economics into our rulemaking.

22 And then after that, we do recovery

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1 planning for the species, to try to have
2 actions to bring the species back where it no
3 longer needs the protection of Endangered
4 Species Act.

5 And on the bottom there, I put the
6 term "take," because some people think that
7 "take" is only lethal killing of an animal.
8 And it's not. It could be impeding its
9 migration. It could be harassing it such that
10 it won't spawn, or things like that. So
11 "take" is not limited to lethal only; it's
12 broader than that.

13 So here's my contact information.
14 Feel free to give me a ring. I have on the
15 bottom our link to Protected Resources Web
16 site. On the first page, I did provide you a
17 link to the 2002 status review. If you're
18 interested in that, you can go to that link on
19 the first page and get the 02 status review to
20 look at the comprehensive and the very careful
21 review that the status review team gave to,
22 and the time they put into that status review,

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1 and all the--it's very stock assessment based,
2 which is highly unusual for a species being
3 considered under the Endangered Species Act.
4 We usually don't have all that great data, and
5 it's a different opportunity that we have at
6 this time.

7 So I'm available to take questions
8 on process and to try to clarify anything, if
9 need be. But if you have some circle hook
10 questions, I think maybe wait till Randy gives
11 his talk, and then we can maybe answer his--
12 cause his presentation might answer some of
13 your questions.

14 [Pause]

15 MR. : [Off-mike question]

16 MS. BOLDEN: Oh, no; it's very much
17 in the picture. We have Mamoosh Shibjee [ph]
18 who--I'm sorry for slaughtering his last name.

19 He recent had a paper published in the
20 Bulletin of Marine Science. We've asked him
21 to give us a presentation. We've asked
22 somebody from the Southeast Fisheries Science

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1 Center, who deals with the observer data, to
2 give us a presentation.

3 We are asking about the potential
4 proportion of what people think that that
5 species might be, in the white marlin
6 population, and if that could have changed,
7 over time. We have questions about is there
8 spatial overlap? Is there overlap in size
9 classes? So maybe we can pick through the
10 data and try to determine, are all the big
11 ones or the small ones one specie or the
12 other? But probably as you know, there is a
13 paucity of data regarding that species, and
14 we're going to do the best we can, and we of
15 course have to include it, because I think
16 that if we didn't, we would be negligent and
17 we wouldn't be completely looking at the
18 species and the potential threats of it.

19 MR. : [Off-mike remark]

20 MS. BOLDEN: I think John--if it's
21 okay with you, we have an authority in the
22 room; if it's okay. I just didn't want to put

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1 him on the spot. Until he volunteered, I
2 didn't want to put him on--

3 [Silence on audio track for several
4 minutes]

5 MR. : Russ Nelson.

6 MR. NELSON: I think John has--
7 Russell Nelson. Yes. --pretty much said what
8 I want to say. I mean, there's been some
9 publicity some this, minor publicity, but
10 we've basically been a species complex of
11 white marlin and roundscale spearfish, and as
12 John said, his data shows that roundscale
13 spearfish have been, over the last 15 years,
14 about 2 percent of that total. It does mean
15 that there's--maybe if the estimate of biomass
16 from the stock assessment of roundscale
17 spearfish, to the extent it was accurate, it
18 means that biomass is only 98 percent of what
19 it said it was.

20 But it also means that the
21 potential maximum sustainable yield biomass is
22 98 percent of where it was. So the relative

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1 status of white marlin is not--this is my
2 opinion, as a scientist, and I'm sure the
3 assessment people within NMFS will deal with
4 the question. But the relative status is
5 pretty much going to be what the assessment
6 said it is. It's not going to be changed by
7 this piece of information.

8 [Silence on tape for a minute]

9 MS. BOLDEN: It is in the 06 stock
10 assessment. The trend does show that it's
11 changed upwards. So we do have that stock
12 assessment and we have asked for a couple
13 presentations on it. So it does show, and I
14 have the stock assessment with me, if you'd
15 like to see the figure, where it does show a
16 slightly upward trend. It's turned.

17 MR. : It was nice to meet you yesterday. I
18 think you mentioned, when you started your
19 presentation, that you were going to talk a
20 little bit about the comments that you have
21 received to date. Did you have a slide on it?
22 You didn't have a slide on the comments that

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1 were submitted before the deadline?

13

2 MS. BOLDEN: I didn't have a slide.

3 I just went over who sent them to us.

4 MR. : Okay.

5 MS. BOLDEN: We got them from
6 tournament directors with some data. We got
7 information on roundscale spearfish. Fishing
8 organizations. The litigant sent us a very
9 lengthy response and some catch data from
10 individual state tournaments, and some other
11 links that people might have thought that
12 would be helpful to us.

13 MR. : [inaudible] coming to
14 this new, so if I'm asking ignorant question,
15 just bear with me. But I saw on one of your
16 slides, that you said that in 2002, when you
17 did the status review, that the number two
18 bullet says, overutilization is occurring and
19 the Atlantic stock is declining but that it
20 was not in danger, in imminent danger, and
21 that's why you did the "not warranted" listing
22 at that time.

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1 And now more to what Rom was also
2 saying, the latest stock assessment says some
3 longline indices and individual fleet indices
4 provide evidence that the decline of white
5 marlin has been partially reversed, and they
6 further go on to say that the recent trend in
7 abundance is slightly upward, which is what
8 you just confirmed as well.

9 If you found, in 2002, that listing
10 wasn't warranted when the stock was in
11 decline, and now, many years later, you have
12 evidence that the stock is not only in
13 decline, that it's partially reversed and that
14 the trend is up, what other factors under this
15 complicated law, could blindsides us and lead
16 to a listing, when it seems as though the
17 stock is in better shape than it was in 2002?

18 MS. BOLDEN: That's a great
19 question, and the reason why the 02 stock
20 status review team decided that it was not in
21 danger of imminent extinction was because they
22 were basing their decision on one percent K.

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1 When the stock got down to such a situation,
2 that's when we should be worried.

3 That is one of the reasons why we
4 were subsequently sued, because the litigant
5 found that was arbitrary and capricious. That
6 that setting the warning flag as one percent K
7 might not have been the best method to do
8 that, and the current status review team will
9 consider what happened in 02, and the
10 criterion that was set in 02, plus maybe
11 coming up with new type of threshold that we
12 need to think about.

13 So that's why we're revisiting this
14 and that was one of the reasons that was
15 brought to court, and the reason why we're
16 going through this was because that, and some
17 other reasons that we decided as thresholds
18 and criteria, that we need to base our final
19 decision on, there was disagreement in the
20 courts on, if that was the best method.

21 [Silence on audio for minute and a
22 half]

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1 MS. BOLDEN: There has been some
2 draft guidance on what we should think about
3 during status reviews and I'd be happy to
4 share that. I don't have it with me. But
5 everything is specie-specific when it comes to
6 the ESA. And this is the only situation for
7 this species that we have stock assessments,
8 and we have these biological parameters, the
9 statistical parameters, that we can do this.

10 So I'm not saying it will be the
11 criteria and will be assessed, and the new
12 status review team will come up with it, and
13 there will be subsequent reasoning as to why
14 we change it or we don't change it. We just
15 have to shore that up and make sure that we
16 have an airtight argument for proceeding,
17 however we will.

18 [Silence on audio for two minutes]

19 MR. : Okay. The initial
20 announcement, the press releases and your
21 first slide repeats it there, that this 2007
22 status review is a result of the litigation

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1 that took place, and I looked back at my--
2 because I remembered, I wrote in the fall of
3 2002, which was probably almost two years
4 before that litigation was settled, that when
5 you announced that it was not warranted, back
6 in the fall of 2002, and it was going to be
7 made a species of concern, you also announced
8 at that time that you would conduct another
9 status review in 2007.

10 And I just bring that up because
11 people have said to me, you know, blaming it
12 all on those damn environmentalists or
13 whatever, that brought this issue back up
14 again because they sued over the damn thing.
15 And I said no, whether they sued or not, you
16 guys had agreed that you would do another
17 review in 2007, under the original decision
18 back in 2002. Either that or I was prescient,
19 and wrote--you know, I've got it several
20 places, in writing, that fall, that you're
21 going to be doing another one.

22 So I'm just trying to clarify that

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1 in my own mind. You just agreed, in settling
2 the litigation, to do something you were
3 already planning to do.

4 MS. BOLDEN: And that's a good
5 point. If you look at the Federal Register
6 notice, it says if the 2007 status review
7 indicates that the ICCAT measurements have
8 been ineffective in reducing fishing
9 mortality, then we would revisit it. So there
10 was an "if, then" statement about revisiting
11 it in the Federal Register notice. So I
12 guess--

13 MR. : Back in 2002.

14 MS. BOLDEN: In the September 9th,
15 2002 Federal Register notice. That's the last
16 sentence of the FR notice. So it was an "if"
17 then. That perhaps would have met either way.

18 MR. : Right; okay.

19 MS. BOLDEN: But the settlement
20 agreement definitely gives us a timeline to
21 work with.

22 MR. : Okay.

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1 MR. DONOFRIO: Stephanie, thank
2 you. Jim Donofrio, representing the RFA.

3 I hope this comes out right. I'm
4 not trying to stir up anything. But the old
5 data, you know, from some of the old billfish
6 amendments, NOAA's data I'm talking about,
7 laid a lot of mortality on the domestic
8 longline fleet, ESAB and domestic, knowing
9 that the fleet, in 2000, and what it looks
10 like now is probably two-thirds removed. And
11 I know it's the foreign boats, for the most
12 part right now.

13 But because we're dealing with
14 domestic law, ESA, are you going to weigh
15 heavily on that reduction of effort in U.S.
16 waters now, you know, while we have a
17 rebuilding stock, or a little better stock
18 assessment. I mean, there's probably two-
19 thirds less fleet. I think there's 88 boats
20 fishing right now, maybe. It was close to
21 what, 300, maybe, in 2000? I'm not sure.
22 Somewhere around that.

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1 So, I mean, that would be something
2 you're going to have to look at very seriously
3 because there's a big, big reduction there in
4 mortality, right in our own waters.

5 MS. BOLDEN: And hopefully the
6 post-release mortality rates, which I think
7 are looking better and better, will also help
8 us in determining the potential impacts of
9 that.

10 MR. NEHLS: Don Nehls. On the
11 past-releasing mortality, is that because of
12 the circle hooks or you're also taking that
13 into account, in the longline gear?

14 MS. BOLDEN: Can I defray until
15 after Randy goes, because I think he has
16 information about success. But we do have
17 independent, some additional data, that after
18 the 02 stock assessment, there was some
19 additional money to study billfishes, that was
20 granted through Gulf States, and those, the
21 preliminary results of all those studies, that
22 included aging, growth, and some other very

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1 interesting things, are just starting to come
2 back. So there's brand new information that's
3 coming about not just the success but also
4 utilizing different gear. So I'm seguing to
5 Randy.

6 MR. BLANKINSHIP: Houston, Houston,
7 we got a problem? Okay.

8 Actually, all of the post-release
9 mortality studies, the reduction in effort has
10 nothing to do with the ESA listing. The ESA
11 listing is going to be based on the status of
12 the stock. It doesn't matter who contributes
13 to the mortality. That might be taken into
14 account in the measures they would take
15 afterwards. But her job is to look at the
16 status of the stock and to determine its
17 probability of extinction over some timeframe.

18 And so these other things are
19 measures that have been taken to reduce
20 mortality, but what they're looking at is the
21 effect of that reduction on mortality. Where
22 does the stock sit now and what is its

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1 trajectory in the future? And that's it.

2 MS. BOLDEN: But all those positive
3 results are going to impact that trajectory.

4 MR. DONOFRIO: Jim Donofrio. Just
5 proving again how unfair ESA is to toward U.S.
6 citizens. It's the strongest law we have in
7 the nation. It impacts on our personal
8 freedoms. That's a perfect example, as John
9 just said, the reduction in mortality with the
10 longline fleet, and all the other measures
11 they have done with their gear, our gear, our
12 release, and here we go, here we go.

13 MS. SCHULZE-HAUGEN: All right.
14 Well, thank you, everybody. Stephanie will be
15 here tomorrow as well, so if you have any
16 further questions, she'll be around to answer
17 them. So I guess--

18 MR. : [Off-mike remark]

19 MS. SCHULZE-HAUGEN: No. I think
20 we'll start tomorrow, 8:30, with circle hook
21 proposed rule, and I'm hoping that we can move
22 quickly through the morning and possibly start

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1 the swordfish discussion before lunch. I
2 understand people want more time. So
3 hopefully, we'll do that. Thank you and see
4 you tomorrow.

5 Please remember to bring the circle
6 hook presentations that have already been
7 handed out.

8 [Whereupon, the meeting was
9 adjourned, to reconvene the following day, at
10 8:30 a.m., Thursday, March 15, 2007, at the
11 same place.]

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