

UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COUNCIL COORDINATION COMMITTEE MEETING

Silver Spring, Maryland
Tuesday, November 5, 2019

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- 3 PFMC
- 4 JIM BALSIGER
- 5 Alaska Region
- 6 MEL BELL
- 7 SAFMC
- 8 TONY BLANCHARD
- 9 CFMC
- 10 MIKE BURNER
- 11 PFMC
- 12 JOHN CARMICHAEL
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- 14 ROY CRABTREE
- 15 South East Region
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- 20 DIANA EVANS
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- 22 TOM FRAZER
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- 26 MARC GORELNIK
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14 DAVE WHALEY
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17 Other Participants:

18 SARAH HEIL

19 DAVID O'BRIEN

20 ANJANETTE RILEY

21 LORA SNYDER

22 * * * * *

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

2 (1:40 p.m.)

3 MS. McCAWLEY: I want to welcome
4 everybody to this November CCC meeting. We look
5 forward to another productive meeting. So just a
6 couple of housekeeping things. If you are looking
7 for a restroom, there is one down there towards
8 the fitness center or you can take the two
9 stairwells up and then around the corner there --
10 that are really convenient to this room. There is
11 water in the back of the room. If you want
12 coffee, food and other refreshments, you can go up
13 to the lobby level. There is a coffee shop up
14 there.

15 Lunch and dinner will be on your own.
16 And then we need to do a voice identification
17 around the table to help with the minutes. Please
18 state your name. Also, when you talk during the
19 meeting so that the comments are attributed to the
20 correct person so let's start over there with Bill
21 for the voice identification.

22 So you're looking for the person with a

1 little -- there's a head there and little bars in
2 front of him. That's how you turn the mic on. So
3 this can also be a test so that everyone can learn
4 how to turn the microphones on.

5 MR. TWEIT: Little squiggly grey things
6 in front of me. Good afternoon, I am Bill Tweit,
7 I am Vice-Chair of the North Pacific Fisher
8 Management Council.

9 MR. WITHERELL: Dave Witherell,
10 Executive Director of North Pacific Council.

11 MR. KINNEAN: Simon Kinnean, Chairman,
12 North Pacific Council.

13 MR. BALSINGER: Jim Balsinger,
14 Administrator of Alaska Fisheries.

15 MR. GORELNIK: Marc Gorelnik, Vice Chair
16 of the Pacific Counsel.

17 MR. BURNER: I'm Mike Burner, Deputy
18 Director with the Pacific Council.

19 MR. ANDERSON: Phil Anderson, Chairman
20 of the Pacific Council.

21 MS. HILL: Nicole Hill, Associate Deputy
22 Regional Administrator.

1 MS. SIMMONS: You need some Alabama
2 chrome in here. Carrie Simmons, Gulf Council,
3 Executive Director.

4 MR. DIAZ: Dale Diaz, Vice-Chair, Gulf
5 Council.

6 MR. CRABTREE: Roy Crabtree, South East
7 Regional Administrator.

8 MR. EISENBERG: Adam Eisenberg, NOAA GC.

9 MS. WALLACE: Jenny Wallace, Office of
10 Sustainable Fisheries.

11 MR. RISENHOOVER: Alan Risenhoover,
12 Office of Sustainable Fisheries.

13 MR. RAUCH: Sam Rauch, Deputy Director,
14 National Fishery Service.

15 MR. OLIVER: Chris Oliver, NOAA
16 Assistant Administrator for Fisheries.

17 MS. McCAWLEY: Jessica McCawley, Chair
18 of South Atlantic Council.

19 MR. WAUGH: Gregg Waugh, South Atlantic
20 Council Executive Director through mid-December
21 and then most of you know John Carmichael over on
22 the right, he will be taking over for me and I

1 just noticed we have a longtime NMFS regional
2 administrator, Dan Furlong in the back. Some of
3 you may know Dan so -- thank you.

4 MR. BELL: Mel Bell, Vice Chair, South
5 Atlantic Council.

6 MR. REID: Eric Reid, I am the Vice
7 Chair of the New England Council.

8 MR. QUINN: John Quinn, Chair of the New
9 England Council.

10 MR. NIES: Tom Nies, Executive Director
11 of the New England Council.

12 MR. ELLIOT: Good afternoon, I am Warren
13 Elliot, Vice Chair of the mid-Atlantic Council.

14 MR. LUISI: Hi, I am Mike Luisi, Chair
15 of the mid- Atlantic Council.

16 MR. MOORE: Chris Moore, Executive
17 Director of the mid-Atlantic Council.

18 MR. PENTONY: Mike Pentony, Regional
19 Administrator for greater Atlantic Region.

20 MR. ROLON: Miguel Rolon, Council,
21 Executive Director.

22 MR. HANKE: Marcos Hanke, Caribbean

1 Council, Chair.

2 MR. BLANCHARD: Toni Blanchard,
3 Caribbean Council, Vice-Chair.

4 MS. SIMONDS: Kitty Simonds, the
5 Executive Director of the Western Pacific Fishery
6 Management Council.

7 MR. GOURLEY: John Gourley, Vice-Chair,
8 Western Pacific Fishery Management Council.

9 MR. TOSALTO: Mike Tosalto, Pacific
10 Islands Regional Administrator.

11 MS. McCAWLEY: Alright, I am going to
12 turn it over to you, Chris for any --

13 MR. OLIVER: Very briefly because I am
14 going to have a few -- a little more extensive
15 remarks in a few minutes but just good afternoon,
16 great to see everybody and I particularly welcome
17 Eric, I believe the newest CCC member. I think
18 you were unanimously elected as Vice-Chair
19 recently so welcome, Eric.

20 And in addition to Dan Furlong, there is
21 another CCC alumnus in the room and that's Rick
22 Robbins so I was really happy to see both of them.

1 Good to see you guys. So I'll talk a little bit
2 more about some recent major issues and priorities
3 in a minute. For the moment, I'll just look
4 forward to the discussions we are going to have
5 over the next three days on several important
6 items.

7 MS. McCAWLEY: Alright, thanks, Chris.
8 I am going to turn it over to Gregg to cover the
9 next couple of items on the agenda.

10 MR. WAUGH: Thank you. Just to call
11 your attention to the transcript from the past
12 meeting that's been posted and the meeting report
13 and I certainly found the meeting report helpful
14 to keep track on. What we are supposed to do
15 between CCC meetings so hopefully that's something
16 you all may consider continuing in the future but
17 we got the EDs, divvied up topics and we will be
18 tracking any motions and putting together a report
19 from this meeting.

20 We will review the major items briefly
21 on Thursday and just in terms of a topical order.
22 This afternoon, we were trying to put together a

1 roundtable discussion with Congressional members
2 and staff. We are going to have a couple of
3 staffers here but they may participate more in the
4 legislative outlook and MSA reauthorization so if
5 we have some extra time this afternoon, we are
6 going to knock out a couple of the work group
7 reports that are scheduled for Thursday. Thank
8 you, Madam Chair.

9 MS. McCAWLEY: Thanks, Gregg. Alright,
10 Chris, I am going to turn it back to you.

11 MR. OLIVER: Okay, well I just want to
12 cover a few items to kick off generally, talk a
13 little bit about priorities in general.

14 This past Summer, we released our NOAA
15 Fisheries Strategic Plan for 2019 to 2022. That
16 four year plan -- hopefully you've taken a look at
17 it. It's online. We have extra copies here but
18 it really continues to reflect three primary
19 strategic goals that haven't changed much over the
20 past three years and that is to support the
21 Department of Commerce and NOAA's Blue Economy
22 Vision and our part in that Blue Economy vision

1 and it continues to be to amplify the value of our
2 commercial and recreational fisheries while
3 ensuring their sustainability.

4 Secondly, to conserve and protect -- to
5 recover protected resource species while
6 supporting responsible resource development and
7 responsible fishing and third, to improve
8 organizational excellence and regulatory
9 efficiency.

10 That plan was intended to highlight our
11 commitment to addressing high priority activities
12 while reviewing, eliminating or minimizing efforts
13 on lower priority activity so that we can provide
14 the best value that we can, given limited budget
15 considerations.

16 The operational and regulatory processes
17 are a focus of that vision. In addition, we
18 identified some of the key challenges in our
19 strategic landscape and how we can plan to better
20 address them by investing in the people, programs
21 and technology platforms that focus on our highest
22 priorities and a key to that is investing in the

1 science and technological advancements necessary
2 to meet our emerging challenges with regard to
3 changing ocean conditions, particularly.

4 A wide range of other issues and so
5 stock -- our basic surveys and stock assessments
6 will continue to be a priority of mine but you are
7 going to be hearing from Cisco tomorrow on this
8 science enterprise update about some new
9 technology and research areas that we hope will be
10 able to augment that.

11 I don't need to stress to you the
12 importance of our seafood mission. Generally it's
13 a key feature of the Blue Economy, whether it's
14 wild capture farmed or otherwise and -- from
15 getting our species rebuilt and back into the
16 marketplace and the successes we've had on the
17 west coast underscore that to increasing our
18 production capacity and meeting demand through
19 responsible aquaculture development and so we are
20 trying to take a leadership role along with
21 direction from commerce and NOAA on particularly
22 the advancement of aquaculture, our regulatory

1 streamlining and maximizing the value that we get
2 out of our fisheries.

3 Importantly, building off of that
4 strategic plan, we, as you know, undertook an
5 initiative to develop national -- excuse me,
6 geographic specific strategic plans, five of them
7 that align with our different regions and the
8 relevant Councils that, as I've said before,
9 provide more local detail of the strategies where
10 the rubber meets the road and so we are going to
11 get an update from Brian Pollock later in the
12 meeting on the status of those.

13 I want to thank the Office of Management
14 and Budget and the staff across the agency and you
15 all on the Councils. Both staff and Council
16 members who have contributed to that effort.

17 Obviously, you know I consider the
18 Councils to be very core key partners in our
19 fishery management mission and so I am looking
20 forward to the completion of those plans and as I
21 said before, technically they are NOAA plans, they
22 are NOAA Fishery's plans but our intent was to do

1 them in close coordination with the Councils.
2 Having said that, I also remember saying it's not
3 -- you shouldn't view them as a vehicle to make a
4 laundry list of very specific issues that you want
5 to accomplish in the region but more of a broad,
6 strategic level and so keeping that in mind, we'll
7 have that discussion later in the meeting.

8 In terms of fisheries generally in
9 August, we released our status of stocks report to
10 Congress for the 2018 period and I think it
11 highlights the success that we continue to achieve
12 through our sound science and adaptive management
13 approaches and the robust process that is embodied
14 by the Council system.

15 I think under the current Magnuson Act
16 and through the Council process, we continue to be
17 viewed as an international leader in fisheries
18 management and sustainability. I would go over
19 all the statistics but 91 percent of our stocks
20 are not subject to overfishing. 82 percent are
21 not overfished and an additional stock, now
22 rebuilt for a total of 45 but we also, at 18 -- to

1 underscore the complexity of our fishery
2 management challenge, we have eight stocks that
3 are added to the overfished list.

4 Now most of those were results of
5 factors outside the direct control of fisheries
6 management but nevertheless, it's a statistic that
7 we don't particularly -- that we aren't
8 particularly thrilled with.

9 I'll talk a little bit about fishery
10 disasters. There has been a lot of activity on
11 the fishery disaster front, a lot of fishery
12 disasters over the past few years on various
13 coasts, from Alaska to the West Coast to the Gulf
14 to the East Coast through your more traditional
15 fisheries disasters but also as you know, a
16 plethora of hurricane events and some major sort
17 of unprecedented freshwater runoff events that
18 were also included in those recent fishery
19 disaster determinations.

20 I also testified earlier this year
21 before the senate committee on commerce, science
22 and transportation that the goal of that hearing

1 was to examine the federal and stakeholder
2 perspectives on that disaster determination and
3 allocation process and how we could improve that
4 process, particularly given the lengthy time it
5 often takes.

6 And in my comments to the committee, I
7 noted that there were improvements to the process
8 on both ends, both the process of determining a
9 disaster and the process of getting to spending
10 funds and allocations and we are actually working
11 on a regulatory package to address some of those
12 issues that include setting target deadlines for
13 the review in analysis of the disaster related
14 information, clearly articulating the information
15 requirements that we need from an applicant so
16 that we can avoid a lengthy back and forth in
17 exchange of information and also additional
18 guidance on the potential uses of funding that as
19 we go through the review process, which is also
20 subject to OMB and other agency review, we hope to
21 get a little clarity on what uses of disaster
22 money are going to be most acceptable.

1 I noted in that testimony that we, the
2 administration support the approach taken in
3 Senator Wicker's bill, which provides an
4 overarching framework with specific deadlines and
5 requirements. It's very similar, I think, to the
6 regulations that we are currently developing but
7 we are poised to make adjustments as we need to
8 depending on the ultimate disposition of that
9 bill.

10 A couple of comments on recreational
11 fisheries, and I know we have some discussions I
12 am looking forward to later in the week related to
13 recreational fishers but in June, following our
14 last CCC meeting, we released six regional plans
15 for more effectively engaging on recreational
16 fisheries issues. Those regional plans focus on
17 three core objectives, which is improving agency
18 visibility within the rec community, developing
19 mutual understanding of priorities, concerns and
20 challenges and enhancing collaboration between
21 NOAA and recreational fishermen and recreational
22 fishing organizations. I think that plan is a

1 good step toward implementing the recently signed
2 MOU that we participated in between NOAA fisheries
3 and four recreational fishing organizations, major
4 recreational fishing organizations and as those
5 plans are put into action, we look forward to
6 being able to strengthen the existing partnerships
7 like those and to cultivate new ones.

8 So I look forward to the sessions on the
9 Modern Fish Act allocations and on our MRET
10 program tomorrow. Just in closing, I want to say
11 again, it's good to see all the familiar faces and
12 look forward to talking with you more about all
13 these issues this week. I want to take the
14 opportunity to know that this will be the last CCC
15 meeting for three people that have been intimately
16 involved in this process for a very long time,
17 that's Gregg Waugh -- that's one, but also Alan
18 Risenhoover and Laurel Bryant as well will be
19 retiring at the end of the year so we'll be sorry
20 to see them go but I just wanted to recognize them
21 because this will be their last meeting with you
22 so I don't know how much time you have. I'd be

1 happy to field any questions or pawn them off to
2 Sam if I can't handle it, or Alan since he's
3 retiring. Put him on the hotspot.

4 MS. McCAWLEY: Thanks, Chris. We
5 certainly have time for questions or comments.
6 Yes, go ahead, Gregg.

7 MR. WAUGH: Thanks, Chris. We
8 participated very well with our region on the
9 regional geographic specific plans. One of the
10 concerns that we had with the national plan is it
11 mentions programs that will not continue to be
12 funded and there was some expectation that there
13 might be some more detail in the regional plans
14 and that detail is not there and my understanding
15 is that the regional offices and centers will work
16 with the Councils on an ongoing basis as they go
17 through that process to determine where programs
18 need to be trimmed because certainly the Councils
19 would like to have a voice in that. We are
20 concerned about our ongoing fishery and
21 independent monitoring programs, for instance.

22 MR. OLIVER: Okay, thanks, Gregg. Yeah,

1 and I don't know if you are referring to a
2 specific example but I think I understand the gist
3 of your comment and I don't think the plans were
4 meant to be so specific as to say we are going to
5 do this, this, this and we are not going to do
6 this, this, and this but provide a framework for
7 assessing when we are going to decide whether and
8 how far to do this and whether and how far not to
9 do this and I fully intend that that would be an
10 ongoing dialogue with the Councils.

11 MS. McCAWLEY: Other questions or
12 comments? Yes, Phil?

13 MR. ANDERSON: Thank you, Madam Chair.
14 Thanks, Chris, good to see you. I was heartened
15 to hear you reference the importance of our trawl
16 surveys in terms of getting the data needed to
17 maintain our strong stock assessments. I continue
18 to believe that lack of funding for that activity
19 remains one of the single greatest threats we have
20 on the west coast in terms of fulfilling our
21 objective of maintaining, sustaining healthy
22 ground fish resources. I think eight of which

1 were overfished not all that long ago and have
2 since been rebuilt so I would just like to
3 reemphasize that as I did in the last time that we
4 met of the importance of that work and the
5 continued concern about the level of funding for
6 that activity.

7 MR. OLIVER: Phil, I share that concern
8 and we frequently have this very discussion in our
9 Silver Spring office to try to figure out how we
10 are going to maintain those and not lose ground on
11 that.

12 MS. McCAWLEY: More questions and
13 comments? Yes, Kitty?

14 MS. SIMONDS: Hi, Chris. I was
15 wondering if you might be giving us some good news
16 sometime this week about our favorite topic, the
17 Marine monument?

18 MR. OLIVER: The disposition of that is
19 above my paygrade, Kitty.

20 MS. SIMONDS: Yes, I know but I just
21 wondered if it trickled down to you?

22 MR. OLIVER: If anything trickled down

1 to me, I'd get in a lot of trouble if I announced
2 it before someone else did.

3 MS. SIMONDS: I always have to ask this
4 question. Remember, our fishermen now have to
5 fish -- 75 percent of their fishing is on the high
6 seas, are Hawaii long liners and they can only
7 fish in 17 percent of the Hawaii EEZ so we are
8 always anxiously awaiting any movement to assist
9 our fishing. US Fishing for the US.

10 MR. OLIVER: You know it's no secret
11 that I support your position on this and I've made
12 it no secret in the administration so I'd love to
13 see some good news on that front too.

14 MS. McCAWLEY: Bill?

15 MR. TWEIT: Thanks, Madam Chair, thanks,
16 Chris. Good to see you. One of the priorities --
17 the first priority you mentioned was the Commerce
18 Blue Economy Initiative and I am wondering, from
19 your perspective, what are some of the next steps
20 on that that might involve Council consideration
21 or Council participation?

22 MR. OLIVER: The NOAA Blue Economy

1 Mission includes many things across many line
2 offices of which fisheries is one. Within that,
3 we have a certain role that we can accomplish and
4 a lot of that, a lot of that energy right now has
5 in fact been focused on the regulatory reform
6 agenda which we have been working closely with the
7 Councils on. The aquaculture development agenda
8 which is a little bit in flux, given some recent
9 court cases and potentially pending legislation so
10 it's a little unclear to me how that's going to
11 pan out. Sam might have a comment on that, not to
12 put him on the spot but beyond that, we have been
13 working with the department on an initiative which
14 could include a potential executive order which
15 will help advance, we think, both our seafood
16 trade initiatives as well as our aquaculture
17 initiatives and to some extent, what I call the
18 third leg of that stool which is our regulatory
19 reform agenda so it would be my intent that we
20 will engage the Councils to the maximum extent we
21 can. I guess potentially sometimes more than you
22 might want.

1 MS. McCAWLEY: John?

2 MR. QUINN: Thank you very much, Madam
3 Chair. I just wanted to -- I know you are well
4 aware of the impact of offshore wind, particularly
5 on the east coast and in the mid- Atlantic that it
6 seems like every other month there is a new lease
7 awarded so I just urge you to keep that on your
8 front burner, in particular the impact on the
9 assessments, you know, the scientist, the survey
10 vessels may or may not be able to get into areas
11 that they have been surveying for the last 50
12 years or so, so as we work through coexistence of
13 fishing and wind, I think we have to keep that on
14 our front burner, both here and up and down the
15 entire east coast.

16 MR. OLIVER: I appreciate that because
17 that has become a focus for me because before I
18 came into this job, I was really very ignorant and
19 unaware the whole development thing until someone
20 showed me a picture of the potential lease sites
21 and -- where is everybody going to fish? We are
22 doing our surveys.

1 So we've made that a priority through a
2 number of mechanisms. We saw it in MLU with BOM
3 and RODA, the Responsible (inaudible) Development
4 Alliance. We submitted extensive comments on the
5 Vinyard Wind project, at least partly we are
6 responsible for pulling back on the timeline on
7 that and actually doing a rigorous cumulative
8 impact assessment and we are continuing to work
9 with BOM on that so it is, it will, as John said,
10 stay on our front burner.

11 MS. McCAWLEY: More questions or
12 comments? Yes, Phil?

13 MR. ANDERSON: Thanks, just one more at
14 least for now. I wanted to just talk briefly
15 about electronic monitoring. I suspect you may
16 have heard from some of our industry folks that we
17 are struggling with transitioning from
18 implementing our electronic monitoring program
19 under the provisions of our EFP to having them
20 implemented under regulation that are going into
21 effect in January of 2021. I wanted to compliment
22 our west coast region for their help and

1 willingness to work collaboratively to look for
2 solutions. We haven't found the magic pathway yet
3 that allows us to continue the success of that
4 program and maintain these cost- efficiencies that
5 we have been able to under the EFP and part of
6 that is -- a big part of that is associated with
7 the video review, data storage and third party
8 review that Civic States Marine Fisheries
9 Commission has at least been doing the first two
10 parts of that and so we continue to struggle to
11 find a pathway that will allow that program to
12 continue to be viable, cost effective, provide
13 savings to the industry over having human
14 observers on board and -- we are continuing to
15 work with the region and the specific states to
16 try to find that pathway but we are struggling.

17 MR. OLIVER: I am appreciative of the
18 cost efficiency issues we deal with on the East
19 Coast and West Coast. I am very familiar with
20 them in the Alaska region and I guess I am
21 hopeful, Phil, given that January 21
22 implementation that I guess trying to be

1 optimistic that we do have some time to hopefully
2 work through some of those issues that yes I have
3 been contacted about.

4 MS. McCAWLEY: Alright, any more
5 questions? Comments? Alright, next up I believe
6 is the best available scientific information
7 presentation by Alan.

8 MR. RISENHOOVER: Thank you, Madam Chair
9 and yes, I am just going to provide a brief update
10 on that for folks. If you'll recall, we have a
11 procedural directive on BSIA that outlines the
12 framework for determining the stock status
13 determinations and that catch specifications are
14 based on the BSIA so it essentially outlines the
15 status quo processes and procedures.

16 I don't have a presentation so just an
17 update here. Is that working? That's better. So
18 just a quick update on BSIA. The procedural
19 directive recommended that each regional office,
20 science center and Council group develop their own
21 BSIA framework that describes how it applies the
22 overarching framework that's outlined in the

1 procedural directive. All the regional offices,
2 science centers have begun initial discussions
3 towards these regional BSIA frameworks so thank
4 you for that. Some regions have started to engage
5 with their Council counterparts as well and others
6 are beginning that discussion so in the Northeast,
7 this topic, I understand is on the agenda for the
8 November meeting of the Northeast regional
9 coordinating council.

10 In the Pacific islands, the western
11 Pacific stock assessment review process, the
12 coordinating committee has been tasked to lead the
13 development of its regional BSIA framework and the
14 good news is that the procedural directive
15 recommends that these regional frameworks be
16 completed within three years so that would be by
17 May of '22, 2022 so there is plenty of time to get
18 those regional frameworks in place and again, if
19 you have questions on those, you can reach out to
20 your regional and science center contacts to get
21 those going if they haven't started already. And
22 with that, Madam Chair, I will take any questions.

1 MS. McCAWLEY: Alright, any questions?
2 Concerns, comments? Anything?

3 MR. RISENHOOVER: I would just, if I may
4 add that you know, we didn't specify a lot of
5 details in that directive document and it's really
6 up to each of the regions, whole regions, Council
7 centers, regions to develop how those frameworks
8 will work and what makes sense to them so thank
9 you.

10 MS. McCAWLEY: Alright, if there aren't
11 any questions or comments, I am going to turn it
12 back to you to continue with your next topic of
13 shifting distribution.

14 MR. RISENHOOVER: And thank you again,
15 Madam Chair and for this, I will do my best Dr.
16 Warner impersonation. He was going to address
17 this but won't be here until tomorrow. So the
18 workshop will be held on shifting distributions,
19 that workshop will be held in the Spring or Summer
20 of 2020, likely either in Silver Spring or the
21 Raleigh, North Carolina area. The final date
22 should be solidified soon, hopefully before

1 Thanksgiving they'll have that date put out.

2 The focus of the workshop will be cross
3 regional coordination of surveys, stock
4 assessments and other NMFS activities looking at
5 the distributional shifts of the stocks. We had
6 planned to hold this workshop last summer but it
7 had to be rescheduled so if you need additional
8 information on this, I can give you some specific
9 context. In the Southeast Fishery Science Center,
10 it's Todd Kellison and in the Northeast Fishery
11 Science Center it's Vince Saba. Those are the
12 ones that will be coordinating the workshop and
13 getting the additional information out to you.

14 As far as the agenda goes for that
15 workshop, once they get the date penned down,
16 they'll send out information about it as well as
17 asking folks what they think specific topics are
18 areas the workshop should focus on should be.

19 MS. McCAWLEY: Alright, thank you.
20 Questions or comments on the workshop? Yes?

21 MR. GOURLEY: I just wanted to confirm,
22 this is going to be open for all Councils, is that

1 correct? To participate or at least come in to
2 observe?

3 MR. RISENHOOVER: I believe so, yes, but
4 we can double check that.

5 MR. GOURLEY: Yes, please, because I
6 think the western Pacific would be interested in
7 participating.

8 MR. RISENHOOVER: Okay, I will follow up
9 on that.

10 MS. McCAWLEY: Tom?

11 MR. NIES: Thank you, Alan. You ran
12 through the topic pretty quickly. It sounded like
13 this is primarily a science and data based
14 workshop? Is that accurate or not?

15 MR. RISENHOOVER: I think it will be
16 more science -- It will be -- according to this,
17 it will be cross regional coordination of surveys,
18 stock assessments and other activities associated
19 with distribution shifts so I think there will be
20 some management component into that. How do you
21 get the science on how they are shifting, where
22 they are shifting and what would the management

1 response be.

2 MR. NIES: So a follow up question. You
3 provided two contacts, both science center
4 representatives. Where is the management input
5 coming from for the planning? Is that from your
6 shop or --

7 MR. RISENHOOVER: I don't think -- we
8 will get back to you on that.

9 MR. NIES: Thank you.

10 MR. RISENHOOVER: That's not what Dr.
11 Warner would say but that's my impersonation.

12 MS. McCAWLEY: Anything else on this
13 topic? Yes, Eric?

14 MR. REID: Thank you, Madam Chair.
15 Thank you, Mr. Risenhoover. Actually my question
16 goes back to your last topic as well. As far as
17 the best available science and input from a
18 variety of sources, first I want to commend the
19 South Atlantic because they are taking on a
20 Citizen Science program and I'd just like to get
21 your input on the value of data collected by
22 citizen scientists to develop better outcomes.

1 MR. RISENHOOVER: And I think that is an
2 important one. The best scientific information
3 available determination is a determination of the
4 information coming out of a stock assessment is
5 the best so that involves the Council's SSC, our
6 science centers, our regional office to determine
7 that so citizen science may be a part of that but
8 it's not a part of that specific topic.

9 MS. McCAWLEY: Other questions?
10 Comments? Yes, Kitty?

11 MS. SIMONDS: Thank you, Madam Chair.
12 So no lights, it's tricky tricky. Did you say,
13 I'm sorry, maybe I missed it, what was the timing
14 on the workshop again? I apologize.

15 MR. RISENHOOVER: It will be in the
16 Spring or Summer of 2020, likely in Silver Spring
17 area or Raleigh, North Carolina.

18 MS. McCAWLEY: Other questions or
19 comments? Alright, I am going to turn it back to
20 you, Alan, for the policy directive system.

21 MR. RISENHOOVER: Thank you, Madam
22 Chair, and for this one, I have an exciting slide.

1 There it is. So the background on this one is
2 over the years, the agency has worked with the
3 Councils to develop and have them review some
4 policy directives that go into our public policy
5 directive site and my understanding is the
6 committee here is interested in what ones do we
7 have pending and what ones may be forthcoming.
8 And I've also split this up into two types and
9 maybe even three types. We'll see how this goes
10 so the top there in what appears to be blue to me
11 are the ones that are these procedural directives
12 that are processes that we would follow.

13 So the procedural directive that is out
14 right now or comment closes on soon on EM data
15 retention. The comments are due by the end of the
16 year and the expected outcome of that is a policy
17 directive that we would put out. The second one
18 there is the procedures for the recusal
19 regulations that you have all commented on as a
20 proposed rule.

21 We are in the process of finalizing that
22 rule and that may result in a regional, manual or

1 a policy directive so I have placed it up there.
2 The lower one there are other items that are
3 either required to be circulated to the Council or
4 other things that we would like counsel input on
5 so we have already circulated the carryover and
6 phase and technical memo. Again, that is -- we
7 are not required to send that to the Councils for
8 review nor do I think we necessarily need Council
9 positions on it. What we need is Council feedback
10 on it, on what those elements of that technical
11 memo involve.

12 So you'll see we'll have that due at the
13 end of the year as well. There is the modernizing
14 recreational fisheries management Act requirement
15 that you review this data integration effort so
16 that one is something that we must send to the
17 Councils. We have that out with a December 31st
18 deadline as well and that will result in a report
19 to Congress.

20 The statute requires that we work with
21 the counselors on that and then the last one there
22 is this practitioner guide to social impact

1 assessments. The science and technology office
2 has that out for Council review until December 2nd
3 so there is only one of those on that list that we
4 are required to submit to the Councils for review.
5 The others we want Council input on so I see a
6 little bit of a difference there. So on things
7 like the technical memos, again, we welcome the
8 input. I don't know that we necessarily need
9 formal Council positions on it. A number of
10 technical memos in the past have had Council staff
11 as authors on it as well. So these are the ones
12 that are out there now. I anticipate there will
13 be one on the recusal that's coming up. There may
14 be additional requests for review of technical
15 memos or such things coming out of our national
16 standard one work group that Stephanie Heinke will
17 talk about in the coming days here on the agenda
18 so those are ones where we value your input but we
19 don't necessarily have the mandate to send it to
20 you all so what we are looking for is there just
21 to cash in I guess on the partnership with you all
22 to get your opinion, your reviews, your insights

1 on those before we put those out. And with that,
2 I'll take questions. Thank you.

3 MS. McCAWLEY: Thank you, that's a very
4 helpful slide and I appreciate that description.
5 Comments? Questions? Yes, Dave?

6 MR. WITHERELL: NOAA Fisheries doesn't
7 follow its own procedural directives. Is it fair
8 for the Councils to point that out to you? Or how
9 do we resolve those issues?

10 MR. RISENHOOVER: Privately first
11 though.

12 MR. WITHERELL: Let's talk after the
13 meeting.

14 MR. RISENHOOVER: Okay, and yes, that is
15 one of those things -- I don't think there is in
16 theory a penalty for that but in many cases, it's
17 good to have some sort of procedure that we all
18 try to follow in a consistent and in a timely
19 manner, whether we hit the mark all the time is a
20 different thing so yes, that's part of the
21 collegial partnership I was talking about.

22 MS. McCAWLEY: Other questions or

1 comments? Yes, Gregg?

2 MR. WAUGH: So thanks, Alan. This is
3 something that we have talked a bit about and I
4 have spoken with Kelly and Dan about it and it's
5 very helpful to have this because in all the noise
6 running Council meetings, it's easy to miss some
7 of these deadlines. I think one that could be
8 added to that is commenting on that aquaculture
9 outline that we are going to hear about because
10 the deadline for that is very short but will this,
11 a spreadsheet like this be maintained and
12 available, say, to the EDs somewhere so that on an
13 ongoing basis, if we have one of those oh-oh
14 moments, we can check and see if we've got a
15 deadline coming. That would be very helpful.

16 MR. RISENHOOVER: Yeah, I think we can
17 look into that. Brian and Kelly, let's see if we
18 can work with and if Rebecca is here, on maybe
19 something on the Council Coordinating Committee or
20 site or on what those are but again, our goal here
21 is not to task you with short deadlines but to try
22 and get the Council input to try and make these

1 products better and we try to have a reasonable
2 deadline for doing those. Thanks, Gregg.

3 MS. McCAWLEY: Thank you, anymore
4 questions, comments? Anything else? Alright,
5 well, Alan, on -- oh, sorry, go ahead, Phil.

6 MR. ANDERSON: Sorry and I apologize,
7 Madam Chair for my -- I am not too quick on the
8 draw here this afternoon. I wanted to ask Alan a
9 question on the BSIA issue and just -- and you may
10 have said this Alan and I missed it but my
11 understanding is that the regions are developing
12 their processes for determining the best
13 scientific information available and they will be
14 coordinating or communicating in some way with the
15 Councils as they develop that?

16 MR. RISENHOOVER: Yes, and they should
17 be working with the science centers as well so
18 then again there is a regional process that works
19 for the Council science center and region
20 together.

21 MR. ANDERSON: And is there a timeline
22 in which we could expect to see those from the

1 centers?

2 MR. RISENHOOVER: So you need to check
3 in with your region on where you are specifically
4 with that but the overall we have asked that
5 people have those procedures in place by May of
6 2020 so we've got a long timeframe here. The
7 short term coordination with your region and
8 center, I would turn to them to give you the
9 specifics.

10 MR. ANDERSON: Thanks.

11 MS. McCAWLEY: Anything else? Well,
12 Alan, on behalf of the Councils, we wanted to
13 present you with this plaque. I am going to read
14 what it says. It's for recognition and
15 appreciation for your advice and assistance to the
16 regional fishery management Councils and for your
17 dedication to the conservation and management of
18 US Fisheries. Thank you.

19 (Applause)

20 MR. RISENHOOVER: And if I might just
21 say one thing. Thank you for this and thanks to
22 everybody. I was sitting here earlier trying to

1 think when was the first CCC meeting I went to and
2 then I thought no, it was called the Council
3 Chairs back then and then I got to thinking well
4 when was that and then I said I better just stop
5 thinking so thank you.

6 MS. McCAWLEY: Thank you so much. Next
7 up we have aquaculture and I believe that David is
8 going to give us a presentation on that.

9 MR. O'BRIEN: Yes. Yes, thank you,
10 Madam Chair. For those of you that don't know me,
11 my name is David O'Brien, I am the acting Director
12 of the NMFS Office of Aquaculture. I have been in
13 this role for several months. I am taking the
14 role that Michael Rubino had up until recently. I
15 want to make sure this flips, how it works --
16 great.

17 It's a pleasure to be here today. I
18 really appreciate the invitation to come and take
19 time out of your busy schedule to talk about
20 aquaculture and provide some updates on some key
21 areas we are working on. It can't be a
22 comprehensive review of course but I'll try to hit

1 some of the highlights for you.

2 I am happy to answer questions along the
3 way if people want to raise their hand and ask.

4 So I'll be talking about some policy
5 updates, some legislative updates and some grants
6 updates. I want to set the stage a little bit
7 here. I think everyone knows this but as a quick
8 reminder of why we are even doing this. The US
9 does import a large majority of its seafood,
10 upwards of 85 percent and the seafood trade
11 deficit is up to over 16 billion dollars now and
12 that number has been increasing steadily since I
13 came onboard. I came onboard to the program
14 roughly 10 years ago. I believe it was 7 or 8
15 billion dollars back then. So it's not just
16 large, it's going in arguably the wrong direction
17 and that has generated a lot of interest across
18 administrations but especially this one in trying
19 to advance sustainable US aquaculture as a way to
20 complement our wild fishing, to increase seafood
21 supply domestically and of course to do so in a
22 way that's consistent with our environmental

1 mandates, EFH, endangered species, et cetera.

2 The big challenge we do have a lot of
3 untapped potential in the US for aquaculture,
4 especially offshore and the real challenge there,
5 why we are not tapping that potential, at least
6 not so far is very complex, inefficient and
7 unpredictable regulatory system and there are a
8 number of reasons for that, I can't get to all of
9 them but I will say that these top two policy
10 updates and legislative updates really are both
11 targeted at addressing that key challenge. How do
12 you make it more efficient and predictable
13 regulatory system, particularly offshore? And
14 I'll hit some grants updates as well.

15 So one key area of emphasis for us over
16 the past year or so has been some strategic plans
17 that was alluded to just a moment ago. Setting
18 the stage here, back in 1980, the National
19 Aquaculture Act was signed. It's called the
20 National Aquaculture Act of 1980. It did a number
21 of things but one of them is to stand up this
22 subcommittee on aquaculture and this is an

1 interagency committee chaired by NOAA, currently
2 chaired by Paul Doremus, who I am sure many of you
3 know as well as his counterpart at the Department
4 of Agriculture and the White House.

5 There are a number of other agencies
6 involved. There is Fisher Wildlife Service, the
7 EPA, et cetera and this reflects one of the
8 complexities of aquaculture management, that there
9 are many agencies at the table, many of whom have
10 different roles and responsibilities and it's been
11 a challenge to coordinate all those.

12 So this committee has been in effect
13 since 1980 but its importance, so to speak or its
14 efforts have waxed and waned over the years. The
15 past couple of years, under this administration,
16 they really put a lot more emphasis into this.
17 The White House has a strong seat at the table and
18 there is a lot of demand and expectations of this
19 group to help set the path for a more efficient
20 aquaculture permanently down the road.

21 That all being said, the subcommittee
22 has been divided up into two broad groups.

1 There's a science planning task force as well as a
2 regulatory task force and in both cases, the goal
3 is to help coordinate actions in the science and
4 regulatory front across federal agencies. Again,
5 Fisher Wildlife Service, USDA, NOAA and others.

6 Both task forces are working on
7 strategic plans. The science plan is a little
8 more advanced in part because they actually sort
9 of decided this setting back in 2014, published an
10 interagency science plan so they are essentially
11 refreshing that plan so that's something to start
12 with.

13 The regulatory task force took a little
14 more to get going and I am going to go into the
15 details in here in just a moment but the general
16 idea is how do we better coordinate across these
17 federal agencies, in particular with the core and
18 EPA but also others to have a more efficient
19 regulatory process.

20 The plans, we actually took the somewhat
21 unusual step of not just putting out a draft
22 planned for comment but the draft outline for

1 comment which -- that we just went out several
2 weeks ago, the comment period on that outline is
3 still open but as someone mentioned a moment ago,
4 the deadline is coming up fast but there will be
5 another opportunity to provide the comments on the
6 draft plan itself.

7 Once these plans are in place and we'll
8 get to this in a moment with the timeline but
9 another aspect of this subcommittee on aquaculture
10 will be to have such an implementation plan to
11 implement both of these plans over the next two to
12 three years. We do expect the focus to be not
13 just on the pure regulatory and science elements
14 but that third bullet there, also focus on
15 economic development. Certainly, the first two
16 pieces, the science and regulatory piece are big
17 components of economic development but there may
18 be other aspects as well such as extension,
19 business incubators, opening up new markets,
20 things like that that do not fit neatly under the
21 science or regulatory pieces but are very
22 important and really essential for us moving

1 forward.

2 As I said, the draft outline is still up
3 for public comment. We welcome the comments from
4 anyone, from the Councils, either collectively or
5 individually. It does close in a few days but
6 there's a link for how you can get to it.

7 I won't go into details of the plan, the
8 regulatory plan but I will highlight the three
9 main goals. 1 is to improve the efficiency and
10 predictability of aquaculture permitting in
11 federal waters, in state and federal waters and
12 that's what I pointed to at the very beginning of
13 my talk. It's also a goal to implement a national
14 approach for aquatic animal health. We've had an
15 aquatic animal health plan in place amongst
16 federal agencies, Fisher (inaudible) service, USDA
17 and others for many years but this goal, we
18 specifically need to refresh that and make a new
19 and improved plan.

20 In the last piece, goal 3 is really a
21 smorgasbord of various tools that can be brought
22 to bear to improve aquaculture management,

1 everything from how to do NIPA analysis and ESA
2 analysis in a more holistic way. How to develop
3 new scientific tools for assessing and avoiding
4 risks of entanglement or of genetic impacts and
5 escapes. There are also citing tools in here as
6 well.

7 So next step is we will share the public
8 comments once they come in with the other members
9 of the task force. We will basically digest those
10 comments and develop a draft plan. That plan will
11 go out, the timeline is still TBD but we are
12 planning on hopefully early this winter. We will
13 certainly make sure that you all are aware so you
14 can provide comments and then hopefully by late
15 winter, depending on the nature of the comments
16 and how extensive they are, we hope to get a final
17 plan out, perhaps as early as late winter.

18 I'll pause there for a moment if anyone
19 has any questions before I shift gears to more
20 legislative updates.

21 MS. McCAWLEY: Questions at this point
22 in the presentation? Yes, Mel?

1 MR. BELL: You had it in there but I am
2 in the southeast region, sort of the -- I would
3 say the low hanging fruit for us related to
4 aquaculture is really in state water. It's
5 mentioned in there. In particular for us, some of
6 the oyster farm type things, suspended cages but
7 that is, in terms of moving forward, at least in
8 our area we don't really see so much potential in
9 federal waters yet but there is.

10 So to the degree that we can get some
11 help with that because we are literally in the
12 beginning stages of some of this and running into
13 challenges associated with things that you need to
14 have in place to even get things off the ground,
15 like dependable seats or understanding of -- from
16 a scientific standpoint of what is safe to move
17 around in the region and those sorts of things so
18 there is plenty of -- I would just refer to it as
19 sort of low hanging fruit in the states right now,
20 at least in our region.

21 MR. O'BRIEN: I am glad you raised that
22 because I think in terms of new opportunities

1 offshore, there is a lot of opportunity there but
2 that's not to dismiss what's happening in state
3 waters. That is the bulk of our aquacultural
4 operations right now. The most -- and that's
5 where it will continue to be for quite some time,
6 in particular, shellfish but also finfish in some
7 states.

8 So the science plan does -- well
9 actually both plans have a state and federal
10 component to them but the science plan is more
11 broad. It's a lot of work emphasizing shellfish
12 research for example and that comes up later in my
13 slides as well so point taken.

14 MS. McCAWLEY: Any more comments and
15 questions before we move -- yes, Kerry?

16 MS. SIMONDS: Yes, thank you, Madam
17 Chair. Thank you for your presentation. Just a
18 quick question, on the draft work plan after the
19 public comments are received in the Gulf Council,
20 are you planning to bring that draft work plan to
21 the Councils and give a presentation or is that
22 going to just be a public comment period like we

1 had for the general outline?

2 MR. O'BRIEN: Certainly we are happy to
3 come and present to the Councils on draft work
4 plan if it's helpful so more than happy to do so.
5 Frankly, I am not sure to what extent we thought
6 through this specific roll out of the draft plan
7 but we can add that to the list certainly.

8 MS. McCAWLEY: Anymore questions,
9 comments at this point in the presentation?
10 Alright, I am going to turn it back to you, David.

11 MR. O'BRIEN: Okay, thank you. Just a
12 few more slides here. Legislative updates, just
13 very quickly about ocean reports in this first
14 bullet. This is a citing tool that was developed
15 by our colleagues at the ocean service and for
16 those that don't know, NMFS operates within the
17 context of a broader aquaculture program within
18 NOAA. We effectively lead that program but we
19 have colleagues at the ocean service and sea grant
20 to work very closely with us as well. Ocean
21 reports is a citing tool and I am sure we are
22 happy to present you the details of that if you'd

1 like. It is a way for us to take a first cut at
2 looking at how to avoid -- how to find good sights
3 for aquaculture and there's a lot to that of
4 course and part of it is making sure from an
5 aquaculture industry standpoint you have the right
6 depths and current philosophies and access to
7 ports and that sort of thing but then also, you
8 want to make sure we are cognizant of and avoiding
9 impacts from dangerous species and other
10 environmental impacts as well as avoiding user
11 conflicts. We certainly don't want to put a farm
12 in the middle of a military base or get 80 percent
13 down the path of permitting and then realize it is
14 in the middle of the military base.

15 Similarly, we want to be cognizant of
16 key fishing grounds and that sort of thing as we
17 are looking to cite operations. So these ocean
18 reports are really a way to look, as we say, at
19 the broad ocean neighborhoods where areas could be
20 good or not so good for aquaculture. It's not the
21 only thing we need to do but it's the first key
22 step along the way. I put this in the legislative

1 updates because Congress is very interested in
2 this. The key developer of this tool has been on
3 a road show for much of the past 6 to 8 months.
4 He spoke to pretty much every congressional member
5 at this point. There is a lot of interest in this
6 tool and it really demonstrates NOAA's efforts to
7 move aquaculture in a sustainable way forward.

8 The other, the second bullet there is
9 the Aqua Act. I imagine there may be some
10 questions about this. This is the bill that was
11 drafted by Senator Wicker and his staff. It was
12 introduced last year and there are updates ongoing
13 as we speak.

14 It does a number of things but the key
15 -- one of the key things is it would clarify this
16 ongoing question which is whether aquaculture
17 should be treated as fishing or not under the
18 Magnusson Act.

19 We've had a longstanding decision going
20 back 25 years or so within NOAA to say given the
21 definition of fishing under Magnusson, aquaculture
22 fits although everyone recognizes it's not a

1 perfect fit but it does fit and we've acted
2 accordingly, certainly mostly in the Gulf of
3 Mexico with their FMP.

4 But there are still questions out there.
5 We have a lawsuit that we lost but we are still in
6 the process of appealing. We will see where that
7 ends up, however, this Aqua Act would say
8 aquaculture is not fishing but would establish a
9 new set of rules for NOAA to establish a permit
10 for aquaculture as enforcement provisions has
11 environmental standards in there. At least in
12 it's current draft, again, this is influx.

13 And we've been working with Congress in
14 the technical drafting assistance mode, meaning we
15 don't have an official position as an
16 administration on whether we support this Act or
17 not, however, we can provide technical assistance
18 in terms of -- if they want to accomplish a goal,
19 what's the best language to get there and what
20 language can be problematic from an implementation
21 standpoint.

22 We expect the bill to be introduced at

1 some point in this Congress but we have been
2 expecting that for several months now and it
3 hasn't happened yet so it's speculative but we
4 still think that it probably -- there's a good it
5 will be introduced this Congress and where it goes
6 from there is uncertain.

7 There was a senate commerce committee
8 hearing on October 16th to talk about the Aqua
9 Act. It was very well attended, some great folks
10 there on the witness list, including Paul Doremus
11 but others from industry and other partners.

12 It was a very good hearing. Again,
13 we'll see if it actually moves the needle in any
14 way, one way or the other. And the last thing
15 about legislative updates is just that -- just to
16 highlight the congressional staff interest. There
17 has been a number of delegations visiting
18 aquaculture operations, including most recently in
19 Hawaii over the Summer is the one operation we
20 have. It's technically in state waters but it has
21 an open ocean aquaculture feel to it, given the
22 depth and the current that's right offshore there

1 or right within state waters.

2 And whenever folks go out there, they
3 seem to really appreciate the value of aquaculture
4 and they see how it could be done well so we are
5 continuing to work with Congress in a variety of
6 ways, including these delegations to educate them
7 about aquaculture potential and the management
8 tools.

9 And then my last update and then we can
10 really just read through this but really quickly
11 while I have the floor, we are estimating more
12 than 29 million dollars in funding going out the
13 door this year. That's an increase from last
14 year. It really falls into several main
15 categories. Within the fishery service, we have
16 been working with the interstate commissions, the
17 interstate fish commissions for the past several
18 years to implement grants programs.

19 For private projects, roughly two
20 million dollars and oyster research consortia
21 grants, roughly three million dollars. This is
22 annually. And this has been a really good

1 partnership through the commissions. It's helped
2 build some bridges there. It's been very valuable
3 for us. And then SK, I think everyone here knows
4 the amount of funding going into SK fluctuates
5 widely. I won't get into that but last year or
6 this year, 2019, we got roughly a million dollars
7 for aquaculture grants.

8 At OAR, where the Sea Grant program
9 lives, they put out 16 million dollars in funding
10 in FY19. They also run the small business
11 innovation research program which is used to
12 develop pilots towards commercialization. Roughly
13 8 million or almost a million dollars in phase 2.
14 In phase 1, they are still in the process of
15 working that through so we should know those
16 numbers pretty soon and then lastly, the ocean
17 service, they have competitive research grants
18 that address a wide range of things but including
19 some grants that are focused really on supporting
20 the shellfish industry through harmful alga blooms
21 and that sort of thing and how they may affect the
22 shellfish industry and helping to develop tools

1 for them to mitigate those potential impacts.

2 With that, I believe that's all the
3 slides I have now. Sorry, I am wrong about that.
4 Lastly, in FY '20, again we are waiting on
5 appropriations as is everyone but right now,
6 looking at the Senate and House marks, which is
7 the guidance they provide about funding levels and
8 projects they want to see funded, it really echoes
9 what we have seen over the past several years.

10 There is a lot of emphasis on shellfish,
11 growth rates and genetic variation, oyster
12 aquaculture in particular as a subset of shellfish
13 is a key focus area both for farming, for seafood,
14 also for restoration.

15 Regional pilots continues to be an area
16 of emphasis and then also there's a focus on
17 supporting and maintaining activities at the -- in
18 particular the northeast and northwest fishery
19 science centers but more broadly all the NMFS
20 science centers. There is a lot of interest there
21 within Congress for really seeing us build or at
22 least maintain our key capacities in these science

1 centers to support aquaculture research. And that
2 is really my last slide. So I am happy to take
3 any questions. I am not sure how much time I have
4 left but I am happy to answer any questions I can.

5 MS. McCAWLEY: We are definitely have
6 time for some questions. Questions? Comments?
7 Yes, Tom?

8 MR. NIES: David, I have a question
9 that's related to a couple of comments you made in
10 your presentation and I am going to ask it I guess
11 two ways perhaps. The first way is under current
12 statutory authority not including the Aqua Act or
13 anything else that is being considered. As you
14 pointed out, it's been the agency's longstanding
15 position that aquaculture activities are fishing.

16 MR. O'BRIEN: Yeah.

17 MR. NIES: And I believe that that's
18 something that is in the appeal for the Gulf
19 Council as well. That's one of the agency's
20 arguments. Does the agency have a position then
21 on whether existing regulations apply to
22 aquaculture? So for example, if there is a

1 species that is prohibited, harvest that's
2 prohibited in the EEZ, does the agency assume that
3 that would prevent an aquaculture activity for
4 that species in the EEZ? And there are probably
5 other regulatory examples but that is probably the
6 easiest one to bring up.

7 MR. O'BRIEN: Go ahead.

8 MR. RAUCH: Sam Rauch. As we indicated
9 at the CCC meeting in Alaska, was it last year?
10 The agency's position is that fisheries
11 regulations do not apply to aquaculture by
12 default. The certainly could, the Council has the
13 authority to do so and certain Councils have taken
14 action but -- aside from the court case but that
15 they have to apply the aquaculture by intention.
16 We see a lot of regulations that could
17 theoretically be viewed as a barrier or a license
18 for aquaculture but there is no indication the
19 Council ever intended it to be so. And so our
20 belief is that these things do not prohibit
21 aquaculture unless the Council was explicit in
22 developing that regulation that it does prohibit

1 aquaculture. So we look for that level of
2 intention to indicate that commitment, otherwise,
3 it would not apply to aquaculture.

4 MR. NIES: Can I ask a follow up?

5 MS. McCAWLEY: Yes.

6 MR. NIES: So a follow up on that is
7 that interpretation is a little bit a problematic
8 from our point of view. In 1998 -- 1996 actually
9 the New England Fishery Management Council had an
10 aquaculture committee, developed an aquaculture
11 policy and the advice from legal counsel at the
12 time and from the regional administrator at the
13 time was that yes, of course, your fishery
14 management regulations apply to aquaculture.

15 And so ever since then, we have never
16 explicitly said that because we had advice that
17 said they did and now this is -- I don't know if
18 it's a change or a clarification, however we want
19 to word it so I guess does this somehow overturn
20 that interpretation?

21 MR. RAUCH: I don't know where your
22 interpretation came from. It doesn't sound to me

1 like it was sort of set in stone or in writing but
2 it might have been an understanding but regardless
3 as you will recall, we were going through -- I
4 mean the interpretation is clear. The Council
5 clearly has the ability to regulate aquaculture,
6 if it does so with intention.

7 We were going -- prior to the issuance
8 of the district court's opinion in the gulf, we
9 were working on a rule that would clarify that and
10 that would go look through the various acts and
11 try to determine was there intention? We had
12 talked about this, maybe in New England there was.
13 Maybe in New England, because of this longstanding
14 understanding that New England interprets their
15 rules to apply to aquaculture because there is a
16 record of that decision. It's not clear to me
17 that that happens everywhere but after the court
18 case in the gulf, that rule is on hold a little
19 bit until we determine what the status of our
20 authority really is so I don't know that we'd
21 change it and I don't know that it necessarily
22 changes your view. I think to the extent that in

1 New England, you have this longstanding practice
2 that you can document somewhere that this is the
3 Council's understanding, that may be the Council's
4 understanding. I am not but the Council still
5 needs to act with intention and what you are
6 saying is the Council did sell intent. Maybe
7 that's true. That's not true everywhere.

8 MS. McCAWLEY: Go ahead, Tom.

9 MR. NIES: Just one more follow up and
10 this is turning to Dave's comment about the
11 technical guidance on the Aqua Act. Is part of
12 your technical guidance, perhaps pointing out
13 where elements of the Act may complicate
14 enforcement under Magnusson, if it's treated
15 separately from Fishery's regulations?

16 MR. RAUCH: Again, I use the prohibited
17 species thing as an example just because it's
18 clear cut. It's somewhat easy to enforce that if
19 you see these fish showing up on the market, at
20 least potentially easy to enforce that.
21 Aquaculture that allows harvest of that would make
22 it more difficult to enforce that through the

1 marketplace. I am not saying whether that's good
2 or bad but is your technical guidance going to
3 that level of detail where you point out those
4 types of issues that may come up?

5 MR. NIES: No, I don't think that
6 specific topic has ever like come up in the
7 context of the enforcement provisions. I know we
8 have spent a lot of time on the enforcement
9 provisions with Congress and looking to Magnusson
10 as a guide, I don't believe the specific topic
11 that you are talking about or that angle was
12 explicitly considered, nor was it requested of us.

13 MS. McCAWLEY: More questions or
14 comments? Yes, Phil?

15 MR. ANDERSON: Thank you, Madam Chair.
16 I just had a question under the broader umbrella
17 of aquaculture. Where do salmon hatcheries fall?
18 Do they fall under that umbrella or outside it?
19 And by salmon hatcheries I am talking about
20 hatcheries that release juveniles into the natural
21 environment.

22 MR. O'BRIEN: So certainly in the broad

1 sense, aquaculture is a tool used for a variety of
2 things, including seafood farming but also for
3 stock enhancement so in a definitional way, that
4 is a form of aquaculture, however, as a program
5 with the NOAA, we typically do not -- we have not
6 considered the salmon stock enhancement efforts to
7 be (inaudible) aquaculture program for a variety
8 of reasons which I won't get into but -- I am
9 happy if you'd like but we sort of cut that off.
10 We said our role really is twofold, one is to
11 focus on aquaculture as a tool for seafood
12 farming, number 1 and number 2, we do provide some
13 research support for just the research side of
14 aquaculture as a tool to restore certain species.
15 We focused on some abalone recovery efforts in the
16 southwest fishery science center as well as Alaska
17 fishery science center.

18 We've supported some king crab stock
19 enhancement research. Those are the two main ones
20 that come to mind so it's a bit of a mixed bag on
21 the stock enhancement research side but that's as
22 far as we've gone and we've always had a sort of

1 unwritten rule, so to speak where the folks on the
2 research side as part of our program but actually
3 implementing that through large scale enhancement
4 efforts, for example, would fall to other programs
5 to implement.

6 MR. RAUCH: I just want to be clear that
7 the agency in large does work significantly on
8 salmon, hatchery management plans to the Mitchell
9 Act funding. There is a substantial national
10 fisheries investment in various salmon hatcheries
11 around the country, just not the aquaculture
12 program and that's more historical, I think,
13 because that was coming through the Mitchell Act
14 and other avenues.

15 MS. McCAWLEY: Any other questions or
16 comments? Kerry?

17 MS. SIMONDS: Thank you, Madam Chair. I
18 think it would be helpful due to the comment
19 period on this if we could get an overview maybe
20 at the counsel level. In the gulf, this is like
21 high interest to us. We spent many many years
22 developing the gulf FMP. We don't know where we

1 are with the lawsuit.

2 Now it's not the wild wild west out
3 there but there is offshore aquaculture. They
4 don't have to go through the Council process right
5 now. They don't have to get any fishing permit.
6 It is going through NMFS and then we do hear from
7 the Army core when there is a various sighting and
8 then we do have to comment through the EPA, which
9 I noticed that is one of your goals with this task
10 that you are working on which -- good luck with
11 that.

12 At the regional level we had a problem
13 so that's a big goal to have but I think it's
14 important, if we could get an overview of this to
15 our counsel. I don't know what the timing is on
16 that but this is an important issue for us and we
17 are struggling right now keeping up with the
18 changes whether they minor changes or major
19 changes to sighting, when things are being moved
20 and interactions with fisheries. I mean there are
21 no requirement to come to the Councils.

22 People have been generous in doing that

1 but there is no requirement to do that and as this
2 moves forward until some of these other things are
3 in place, I just feel like we are struggling with
4 keeping up with what's going on with our waters.

5 MR. O'BRIEN: Yeah, I think we are
6 certainly happy to come and talk to the Council
7 about the draft plan when it comes out. I am not
8 sure the best mechanism to do that, given the
9 timing of your meetings and such and we do have --
10 we are trying to get the plan out this winter if
11 at all possible. Perhaps a webinar or something
12 like that could be set up with staff. We can --
13 maybe Brian and I can talk offline about how best
14 to do that.

15 But since you raised that point, it's a
16 good one, about what's happening right now in the
17 Gulf of Mexico. I think when the group of
18 plaintiffs came in and asked us or asked the court
19 to rule against aquaculture being a form of
20 fishing and they won that lawsuit, at least at
21 this stage, there was a general sense among some
22 groups that that meant there was a ban on

1 aquaculture in the Gulf of Mexico and actually
2 that's not the case at all. It just means that
3 it's not a NMFS permit. They can still and are --
4 groups are coming in asking for EPA permits, Army
5 core permits and we have a role in the
6 consultation under ESA and EFH and others and we
7 have a general coordination role in the National
8 Aquaculture Act but our role is more limited given
9 the absence of the Magnusson Act and permit.

10 It's one of the -- you know, the
11 benefits of either having Magnusson authority or
12 under the Aqua Act, having -- NOAA having a
13 central place at the table -- we are already there
14 in a coordination way but it's not in a regulatory
15 way and that's one of the challenges right now in
16 the Gulf of Mexico.

17 And the same thing is happening other
18 parts of the country as well when some of our
19 stakeholders are using non- managed species but
20 that's really the way that some folks are moving
21 forward with offshore aquaculture, just using
22 species that are not federally managed at this

1 time.

2 MS. McCAWLEY: Any other questions or
3 comments? Alright, thank you, David.

4 MR. O'BRIEN: Thank you.

5 MS. McCAWLEY: Next up on our agenda, we
6 have time for public comment. We don't have any
7 particular forms for people to fill out so I am
8 just going to ask people and look to the audience
9 to see if there are folks that do want to make
10 public comment.

11 Alright, I don't see anyone so let's go
12 ahead and take a 15 minute break.

13 (Recess) And now we are going to be
14 moving into our

15 Legislative outlook and MSA
16 reauthorization. Alright, I am going to ask Dave
17 Whaley if he wouldn't mind stepping up to the
18 table.

19 MR. WHALEY: Alright, I passed the first
20 test. Well thank you all, welcome to Washington.
21 As you know, we are the home of the World Series
22 Champion, Washington Nationals.

1 (Applause) I am actually just
2 stalling until the staff gets
3 Here. They are not here yet so --
4 apparently we have two congressional staff coming.
5 As a former House staffer, I am just happy to
6 announce that both majority and minority from the
7 House natural resources committee are coming.
8 Obviously, the people's House thinks it's
9 important to talk to the Councils. I won't make
10 any comments about the Senate.

11 For those of you that I haven't met, and
12 I think I have met everybody except for maybe
13 Eric, who I think I met in my past life. I've
14 tried to keep you all up to speed on Congressional
15 hearings and I am going to start my little speech
16 with excuses.

17 Most committees only give 48 hour notice
18 on Congressional hearings so I tell you guys as
19 soon as I can but sometimes it may be the day of a
20 hearing and I apologize but that's what I've got
21 to work with.

22 In addition, sometimes when the

1 Congressional committee has announced hearings,
2 they don't announce who the witnesses are going to
3 be so I may send you a note that says there's a
4 hearing coming up, I have no idea who is
5 testifying but here's what it's on and for that I
6 apologize.

7 As part of the monthly report that I
8 sent you, there are links to all the hearings that
9 have taken place already so you can go back and
10 watch them if you want. There is also a list of
11 who testified so you can go back and see if any of
12 your friends or enemies have testified and you can
13 go back and watch what they said.

14 As part of the monthly report, I also
15 give a list of specific legislation that's been
16 introduced and also an update on any time any
17 action is taken, whether a hearing has taken
18 place, whether it's on the House or Senate floor,
19 whether it's become public law, et cetera.

20 I am really curious how you use the
21 monthly reports, whether they're useful to you, if
22 you have comments or questions at all please let

1 me know. If you have comments on how I can make
2 it better, let me know. I know it's a large
3 document but I want you to have that ability to go
4 back and watch previous hearings if you want.
5 Everybody is always asking me about politics. If
6 you don't know, if you've been hiding under a rock
7 for the last year, next year is an election year
8 and not just a regular election year but a
9 presidential election year and that's one year
10 from this week. By the time we meet in May, 37 of
11 the 50 states will have already held their
12 primaries so we'll have a pretty good indication
13 of who is going to be the nominee for both major
14 parties.

15 All 435 members of the House of
16 Representatives are up for reelection and 1/3rd of
17 the Senate is up for election so things can change
18 starting at the end of next year. Because it's an
19 election year, timing for what happens in the
20 House and the Senate is a little bit questionable.
21 They are going to try and go home as much as they
22 can so pretty much after July of next year,

1 nothing is going to happen. The reason that I
2 mentioned this is there's a couple of folks that
3 have talked about legislation that might be
4 introduced later this year or early next year.
5 The later it gets introduced the less likely it's
6 going to have any action in the 116th Congress.

7 Magnusson-Steven's reauthorization
8 update: I'll give you a quick update. As you all
9 know, it was last reauthorized in 2006/2007.
10 Appropriations were authorized through fiscal year
11 2013 so we are already six years past the
12 authorization, the last authorization.

13 Only one bill has been introduced in
14 either the House or the Senate that would
15 reauthorize the Magnusson Act and that was a bill
16 that was introduced by Congressman Young from
17 Alaska. It's almost identical to the bill that
18 passed the house last year but as many of you
19 know, the House changed hands so it's not being
20 controlled by the Democrats so it's unlikely that
21 that bill will move this year.

22 During the next presentation, Lora

1 Snyder from Congressman Huffman's office is going
2 to be here and from the committee staff, I am
3 going to tell you a little bit about what their
4 plans are but I'll give you a brief update on --
5 Chairman Huffman's had some listening sessions.
6 He announced that he was going to do a series of
7 listening sessions around the country, hopefully
8 one in each of the Council areas to discuss the
9 Magnusson reauthorization and then he was going to
10 develop a bill after that.

11 He announced that in July. He's already
12 held two of the -- I guess there would be eight or
13 nine listening sessions. The first two were held
14 in California. There are videos of the listening
15 sessions that are available. They were a little
16 difficult to find but I sent out a memo that I
17 think most of you should have gotten that has a
18 link to both the videos, if you want to watch.
19 They take about two hours.

20 Also on the Congressman's website, not
21 on the committee website but on the Congressman's
22 personal office website, there is a link for

1 public comment for those who can't make it to any
2 of the listening sessions. The format for the two
3 listening sessions so far has been an opening
4 statement by Chairman Huffman followed by five
5 minute statements by panelists and both of the
6 listening sessions had a panel that sat on the
7 dais with the Congressman.

8 After five minute statements by each of
9 the panelists, they then discuss some questions
10 that Chairman Huffman posed and while they were
11 discussing those, they collected questions from
12 the audience, which they then addressed.

13 Following those questions, they then had
14 an open mic session for public comment and that
15 was consistent for both the two. The memo that I
16 sent out -- I transcribed the opening statement
17 that Chairman Huffman made so you can see that.
18 At the end of the last listening session, the
19 Chairman said that the next session would be
20 either in the mid-Atlantic or New England region.
21 He didn't make an announcement about when that
22 would take place but he said that was likely where

1 the next one would take place.

2 I took some notes from the sessions and
3 I will go through those very quickly but any issue
4 that came up more than a couple of times I wrote
5 down. A couple of these are -- since the first
6 two listening sessions were in California, two of
7 these may be kind of California centric issues but
8 the issues that were mentioned were changing ocean
9 conditions and climate change, the need for more
10 and better research, salmon management and habitat
11 conservation, especially inland and that included
12 water issues, again a California issue.

13 Another issue that I think may be just a
14 west coast issue is concern about limited access
15 after rebuilding plans are completed. A couple of
16 panelists expressed an interest in some type of
17 open access after a rebuilding plan was
18 successful, mostly to benefit small boat fleets.

19 Again, habitat protection, not
20 necessarily salmon habitat but habitat protection
21 was mentioned a number of times by panelists.
22 Several panelists mentioned the idea that they

1 would like either NOAA or the Councils to have
2 veto power over other federally permitted actions
3 that might affect central fish habitat so that
4 came up a couple of times.

5 Forage fish protection came up,
6 community impact mitigation and local
7 infrastructure mitigation came up and trade,
8 marketing and promotion came up. On the senate
9 side, as you may remember, the end of last
10 Congress, Senator Sullivan from Alaska sent out a
11 request for comments on a draft bill that was
12 circulated. A number of Councils responded. We
13 haven't seen anything come of that and I talked to
14 a staff and they said it was unlikely that they
15 would introduce something this year unless the
16 House started to move something and then they
17 might introduce something as a counterpoint, so
18 not much going on in the Senate on Magnusson.

19 On appropriations, I think we are going
20 to talk a little bit more about that tomorrow but
21 the government is currently funded through
22 November 21st, which is a little over two weeks

1 away. Right after I sent out the last monthly
2 report, the Senate passed a package of
3 appropriation bills which includes appropriations
4 for the department of commerce so that's good
5 news. They amended what the House had sent them
6 so now it has to go back to the House but it does
7 include funding for NOAA, it includes funding for
8 five of the regular -- of the 12 regular
9 appropriation bills.

10 I apologize but the language is not yet
11 available so I don't know what's in it but once
12 it's available, I'll try to send something out so
13 you can see what the numbers are. As I mentioned
14 in the monthly report, I sent out a list of what
15 legislation is out there. If you -- if any of the
16 Councils have some specific legislation or issue
17 that you want me to track that I am not, please
18 let me know.

19 So far, no fish related legislation has
20 gotten to the President and so far, there are only
21 nine fish related bills that have passed the
22 House. No fish related bills have passed the

1 Senate yet.

2 There are rumors of a possible fish
3 package which would be a package of a number of
4 fish bills that might be getting put together in
5 the Senate. I haven't seen anything and I've only
6 heard rumors so I don't know what's likely to be
7 in it or if the rumors are true but once I know,
8 I'll let you know.

9 There has been a lot of talk about the
10 forage fish legislation. I know that several
11 Councils have been asked to comment on the
12 legislation and I have seen letters going to
13 members so I appreciate that. There has not been
14 a hearing scheduled and we haven't seen any action
15 on the bill yet and there is no Senate companion
16 bill so nothing going out on the Senate on that
17 issue either.

18 On aquaculture, as you know, well as
19 Dave mentioned earlier, last Congress, Senator
20 Wicker introduced a pretty comprehensive
21 permitting and regulatory structure for
22 aquaculture in the offshore areas. It has not

1 been introduced yet this year and as Dave said,
2 apparently it's going under some significant
3 revisions so we'll see what comes out.

4 There are 11 other bills dealing with
5 either labeling or genetically modified salmon or
6 worker protection for aquaculture facilities but
7 that bill from last Congress is the only one that
8 is a comprehensive aquaculture bill.

9 Just real quickly, there are seven bills
10 dealing with sharks, two bills that would restrict
11 drift net fisheries, one bill dealing with fluke,
12 14 bills dealing with coral reefs and one bill
13 dealing with sea birds. Sea birds? Are staff
14 here? Should I finish up? Well real quickly I'll
15 go through three bills that were introduced since
16 the last time we met that are kind of interesting.
17 Two of them were introduced by Senator Wicker who
18 is the Chair of the Senate Commerce committee so
19 if he wants to move them, he can move them.

20 The first would designate regional Ocean
21 partnerships within NOAA. You may remember we had
22 a lot of discussions a few years ago about the

1 national ocean policy and how it was a sort of a
2 Federal overlay. This would be sort of similar
3 but it would not -- it would only be under NOAA
4 and it would be state run so it would not be a
5 federal overlay so that's kind of interesting.

6 Senator Hyde-Smith from Mississippi also
7 has a bill called the Commercial Fishing and
8 Aquaculture Protection Act. It would be a bill to
9 provide a safety net program for commercial
10 fishermen and aquaculture producers. The last one
11 I am going to highlight, because I see staff is
12 here and I'd rather you hear from them is a bill
13 also introduced by Senator Wicker. It's titled
14 The Fishery Failures Urgently Needed Disaster
15 Declarations Act.

16 It authorizes the Secretary of Commerce
17 to determine Fishery disasters, it sets up a
18 procedure for who can ask for disaster. It
19 includes aquaculture under disaster assistance and
20 it also repeals or eliminates the
21 Interjurisdictional Fisheries Act Disaster Program
22 and the disaster program under Magnusson and

1 replaces it with this freestanding provision so a
2 kind of interesting. I don't know where it came
3 from or where the genesis of it was but it's out
4 there for comment so I'll wrap it up with that
5 since the Congressional staffer is here and if
6 anybody has comments, we can do them now or after
7 they talk.

8 MS. McCAWLEY: Why don't we hold
9 comments for you and questions for you Dave until
10 after we talk to the staff so I believe we have
11 Bill Ball and Lora Snyder with us so welcome. I
12 don't know if you guys wanted to talk? Bill?

13 MR. HOLMES: My name is Dилford Holmes,
14 I am in the NOAA legislative affairs office on the
15 fisheries team there. Good to see many of you
16 again and welcome to the new folks as well. As is
17 our usual custom, we invite our authorizing
18 partners on the hill to come and speak with you
19 all and to engage in a lively discussion, talk
20 about current activities, what they are working on
21 and what their expectations are for the current
22 session of Congress.

1 They are our authorizing partners on the
2 hill so they are not our appropriating partners so
3 when we get to the questions and answers, they
4 won't be able to answer as fluidly when it comes
5 to budget numbers but when it comes to oversight
6 of NOAA, NOAA fisheries and our activities, these
7 are the folks that we work with on the hill so
8 with us we have Laura Snyder, who is the Staff
9 Director for the Water, Oceans and Wildlife
10 subcommittee of House natural resources on the
11 Democratic side and Bill Ball, Deputy Staff
12 Director of the full committee on the Republican
13 side so I'll let you guys introduce yourselves and
14 throw it over to Lora to begin.

15 MS. SNYDER: You can go.

16 MR. BALL: Alright, I'll go because I'll
17 be a lot shorter because the short answer is I
18 don't know what's going to happen for the rest of
19 the year. I have no control over that so I
20 appreciate the opportunity to speak with you guys.
21 It's always a good opportunity to kind of -- it's
22 a good opportunity to try to get here early and

1 see what Dave has to say and figure out what is
2 actually going on in D.C. because sometimes I
3 don't even know.

4 You know, again, we are -- obviously we
5 are -- being in the House minority now, we are the
6 lowest man on the totem pole. We don't really set
7 the agenda or the calendar so I can't speak much
8 to that but you know, bigger picture I think we've
9 really tried to adhere to a general policy and
10 that hasn't always been the case, especially in
11 the Gulf because we have some very passionate
12 members in that region but to stay away from D.C.
13 Policy from Congress that regulates species
14 specific fishing or gear types and whatever we can
15 do to keep the Council process whole and -- well,
16 as whole as possible so we've really kind of
17 adhered to that.

18 In terms of fishing specific, obviously
19 the biggest thing we usually work on on the
20 committee that's specific to fisheries is
21 Magnusson. We have pushed a bill on our side of
22 the aisle for a number of Congresses with Mr.

1 Young to reauthorize the act. Frankly, I will say
2 that while we didn't come close to agreement last
3 Congress, both Mr. Young and Mr. Huffman actually
4 had good conversations that I think were very
5 genuine in trying to find a path forward. And so
6 seeing if that may be an option this time around.

7 Reality is we'll kind of see. I do kind
8 of echo what David said. The Senate has probably
9 been a little more interested in looking at a
10 bigger package at this point and to be determined
11 how that plays out. Obviously it's a lot harder
12 for them to kind of shift gears and do that and
13 get things off the floor but there were a couple
14 of things I think, the major sticking points for
15 us and I'll probably be a little more frank here
16 than I should be, in Magnusson are things dealing
17 with shifting environment and dealing with forage
18 fish so I am happy to answer any questions. I
19 don't really have any insight into what's going on
20 so I apologize for that but again, those two
21 issues seem to come up again and again when we
22 talk to people about a bigger kind of more

1 fundamental framework change in Magnusson so I
2 would, if I could pose kind of two open ended
3 questions to you all because you are the ones who
4 deal with and implement the law, the Magnusson-
5 Stevens Act most directly on a daily basis and
6 certainly -- probably everyone at this table is
7 more adverse in it than I am. Is there anyone I
8 guess here that feels that under the current
9 Magnusson framework that law prohibits the
10 Council's ability to manage forage fish as they
11 see fit? I'll take that as a no.

12 Second, and these are honest questions.
13 I mean obviously we are trying to gauge how this
14 kind of -- how the Act is implemented and issues
15 that there are. We do hear a lot about shifting
16 climates and climate change and shifting stocks
17 and changes in habitat but do you all feel that
18 there is anything -- or can anyone here identify
19 anything in the Magnusson-Stevens Act that
20 prohibits you all from addressing shifting stocks
21 and shifting habitat environments when you are
22 setting FMPs. Money, that's true, very true and

1 fortunately we are not appropriators so our job is
2 a lot easier because it just is.

3 I think on that, obviously
4 appropriations is a very interesting game right
5 now. I don't really know how that's going to play
6 out; I don't think anyone really does. I think
7 it's a flip of the coin but we will see. I know
8 there is some good language in there. I also know
9 that we worked with the Senate and with Lora and
10 her team and frankly you can give these guys a
11 credit for pushing it, for trying to develop some
12 additional IUU language to help kind of complement
13 what was done in the Bordallo bill. That's kind
14 of in purgatory in the NDAA and I don't know how
15 that's going to play out but you know, we, I think
16 came to a decent compromise there with the House
17 and the Senate and some more language to push
18 forward there.

19 Other than that, again, I don't really
20 have great outlook for you guys so I'll pass over
21 to Lora who is in control so she can tell you
22 what's going on.

1 MS. SNYDER: Thanks, Bill. And thank
2 you for having me here. So Lora Snyder, I work
3 for Chairman Grijalva for the House Natural
4 Resources Committee but as you know, the
5 subcommittee Chair of the Water, Oceans and
6 Wildlife Subcommittee is Mr. Huffman who has long
7 been interested in fisheries issues and MSA. As
8 Dave mentioned, previously he made the
9 announcement that he is committed to going to as
10 many regions as possible. He very much wants to
11 hear from all stakeholders involved with fisheries
12 management and he -- so the Congressional schedule
13 obviously is difficult so I know you are -- there
14 is probably a question of where is he going to be
15 going next, where will the location be.

16 The plan is to, because of the schedule,
17 to announce those a week in advance so we are
18 going to try and make it where it will be the most
19 successful locations as possible coordinating
20 around events where people will be available. For
21 the Spring, just one of the challenges is we don't
22 even have the Congressional calendar for January

1 so we are -- we probably won't get that until
2 December so looking at the Spring for the
3 different locations, we do have to wait a little
4 bit but that being said, and as Dave said, the
5 listing sessions are not the only way to engage in
6 the process. There is the online portal,
7 Christine and Congressman Huffman's personal
8 office is meeting with a ton of people and doing a
9 lot of outreach so please get in touch with her or
10 with me or you can tell any of your stakeholders
11 that we are more than happy to talk.

12 And then, the draft bill, we would
13 expect to be out in the Spring time. We will --
14 Congressman Huffman fully intends on engaging in
15 the formal way through the Council process as well
16 so you should be expecting that. So why don't I
17 stop with the listening session, see if there are
18 any quick questions on that and then I can kind of
19 turn to other stuff that's not directly a
20 Magnusson reauthorization. Does anyone have a
21 question? Yes?

22 MR. GOURLEY: Thank you all for showing

1 up and talking with us. I noticed when you were
2 saying that Congressman Huffman was going to try
3 to meet. We in the western Pacific would like for
4 you to make extra effort to come out at least to
5 Hawaii and meet and then we can possibly bring
6 people in from the outer islands of the Marianas,
7 American Samoa and Guam.

8 Our fisheries are not as big as the east
9 coast but they are very important to us both
10 culturally and economically and I am really hoping
11 that he will be able to reach each Council, not
12 just try to get to each Council.

13 MS. SNYDER: I will pass the message
14 along.

15 MR. GOURLEY: Thank you.

16 MS. SNYDER: Okay, sorry.

17 MS. McCAWLEY: I think Gregg has some
18 questions.

19 MR. WAUGH: Thanks to both of you for
20 your presentations and for taking the time to be
21 here. Lora, we would offer up our first week in
22 December, our Council meeting is in North Carolina

1 and we would be glad to forward our Council
2 schedule for 2020 because that would be an easy
3 opportunity.

4 We would handle all the organization
5 side of it and you would have a pretty diverse
6 group there so we'd make that offer.

7 And the question is how are you choosing
8 the panelists? Because obviously we would like to
9 get someone to present the Council perspective and
10 maybe someone from our region.

11 MS. SNYDER: So this is all being done
12 through Congressman Huffman's personal office so
13 again, you can reach out to me or to Christine and
14 coordinate with her on this. As you can imagine,
15 it's a pretty big job.

16 MS. McCAWLEY: Dale?

17 MR. DIAZ: Yes, similar to Gregg's
18 comment, I was just going to mention the next Gulf
19 Council meeting is in New Orleans and it's
20 scheduled for the week of January 27th through the
21 30th and it may be just an option for you all to
22 consider also for -- there will be a lot of

1 stakeholders already there. Thank you.

2 MS. SNYDER: Yes, and I know Topher has
3 shared all of the Council meetings with the office
4 so that -- all the Council meetings are being
5 considered when they are making the decisions.
6 Can -- shall I turn it over to some of the other
7 issues?

8 So, we obviously are interested in a
9 number of issues pertaining to Magnusson, shifting
10 fish stocks as Bill was mentioning. We are very
11 entrusted in what tools the Councils, the agency
12 need to better address this issue and especially
13 in a changing climate so that we are very
14 interested in. Always interested in new
15 technologies, science and ways to better manage
16 our fisheries. Topher gets that response from me
17 a lot when the status of the stocks report is sent
18 up to Congress and there's a picture of a fish and
19 it says that only 12 percent or whatever percent
20 it is are overfished or overfishing is occurring
21 but that's of the species that have had stock
22 assessments and so there are a number of species

1 that have not had stock assessments and so we also
2 are very interested in making sure that we are
3 doing the assessments for more species and the
4 process that needs to go into that.

5 IUU, so illegal fishing and then the
6 connection with human trafficking is priority
7 especially of Chairman Grijalva's. We are next
8 week having a hearing on November 14th on the IUU
9 report to Congress and I appreciate NOAA, for the
10 first time they mentioned some of the human rights
11 abuses associated within the seafood supply chain
12 so we will be looking into that report and also
13 again diving into what we can be better doing to
14 protect in our honest -- our fishermen here in the
15 United States that are competing with seafood
16 that's coming into this country that comes from
17 whether IUU fishing or any type of association
18 with the seafood supply chain that has some type
19 of human trafficking so that's going to be -- it's
20 not so much of the Council but it is an issue that
21 I spend a lot of time on so you should expect to
22 see more of that and like I said, Chairman

1 Grijalva is very concerned in that area.

2 MS. McCAWLEY: Any questions for Lora?
3 Questions for Bill?

4 MS. SNYDER: Alright.

5 MS. McCAWLEY: Alright, thank you, Bill,
6 thank you, Lora for coming and spending time with
7 us and giving us some updates, we really
8 appreciate it.

9 Alright, I am going to go back to
10 questions for Dave Whaley. I guess my question,
11 Dave, is are you getting what you need from the
12 Councils? I think the last you were here, you
13 might have asked for some documents or some
14 reports from each of the Councils. Are you
15 getting what you need in a timely manner?

16 MR. WHALEY: I've gotten most of them
17 and I've talked to the folks that have not
18 provided them yet and they are on their way so we
19 are in good shape but just before Lora and Bill
20 leave, one of the things we are trying to do is
21 get some answers on some key issues before you ask
22 for them because sometimes our -- sometimes it's

1 hard to get the Councils to get consensus on some
2 of the issues so we are trying to preload that
3 process so we'll have some answers for you on a
4 couple of issues like climate change and forage
5 fish.

6 MS. McCAWLEY: Yes, John.

7 MR. GOURLEY: Thank you, Dave. You
8 asked how we used your report and if we had any
9 suggestions. You got your pen ready? We love
10 them. We anxiously wait for your monthly report
11 and we treasure them.

12 MR. WHALEY: I won't say that's sad but.

13 MR. GOURLEY: No, we do. We use them
14 for every Council meeting. It keeps us on our
15 toes and we really appreciate them. Thank you
16 very much.

17 MS. McCAWLEY: Anything else? Anymore
18 questions, comments for Dave? Yes, Gregg.

19 MR. WAUGH: Sorry.

20 MS. McCAWLEY: Okay. Alright, with
21 that, thank you, Dave. We are going to turn it
22 over to our other Dave who is going to talk to us

1 about the legislative work group committee report.

2 MR. WITHERELL: Thank you, Madam Chair.

3 We all have different names for this, I tend to
4 call it the legislative committee but there are
5 those that call it the legislative workgroup but
6 it's really all the same. I don't know if there
7 is an official name, I'll have to go back into the
8 record to find out.

9 Anyway, for background, this is a
10 picture of Homer, Alaska from our Council meeting
11 we just had there last month. It turned out the
12 weather was pretty decent the whole time and this
13 is right outside the meeting room so it was
14 somewhat difficult to concentrate when you saw the
15 boats coming by and folks catching fish right in
16 front of us. And we certainly appreciated having
17 Sam Rauch come and speak to the Council as well so
18 thank you.

19 It's dated as October 2019 and while
20 this meeting isn't in October, I was ahead of the
21 schedule and I had this finished last month so the
22 date is a little bit wrong. Just to review, the

1 legislative committee membership, we have members
2 from the different Councils. We did lose Terry
3 Stockwell who is no longer the Chair of the New
4 England Council, the vice chair of the New England
5 Council.

6 This is a picture of a 500 pound plus
7 halibut that was taken in Kodiak this summer.
8 Unfortunately, they harpooned it and shot it so it
9 wasn't eligible for an IGFA world record but quite
10 a catch regardless.

11 If you note at the last CCC meeting the
12 CCC did elect Tom Nies as vice chair. That's the
13 other piece of information.

14 Dave Whaley already provided his report
15 to you. He also provided that report to the
16 committee and these were the two items that really
17 jumped out at us. First that Congressman Huffman
18 was having roundtable discussions and two had
19 already been held and Marc -- one of our members,
20 Marc Gorelnick was in fact a testifier at one of
21 those hearings.

22 Second, we did get a request on North

1 Pacific Council, Pacific Council, and Mid-Atlantic
2 for comments on the Driftnet Modernization and
3 Bycatch Reduction Act and the Forage Fish
4 Conservation Act and we've, I believe, posted all
5 those comment letters on the Fishery Council
6 website and for reference. Tom Nies, this is an
7 Atlantic cod of 110 pounds but it was caught in
8 Iceland. That's what they look like. I've never
9 seen one so big.

10 We did have a conference call at the
11 legislative committee and made several
12 recommendations to revise our working paper.
13 Among those are turning our introductory section
14 that includes all the position statements, the
15 consensus statements on the different topics, some
16 background material, our overall points that the
17 CCC has made, general comments on preparation of
18 legislation and turning that into an executive
19 summary. Dave Whaley thought that that might be
20 useful for the staff to include as background
21 materials at some future hearing and might be kind
22 of a simple guide for the staff so we are

1 recommending that.

2 Secondly, the committee recommends that
3 we take the timing for FMP revision summaries that
4 we have all been preparing for Mr. Whaley and turn
5 that into a new topic area. Some of the draft
6 legislation that comes out now and then includes
7 various timelines and deadlines for completion of
8 Council action or implementation by the Secretary
9 and some of those are unrealistic so we wanted to
10 kind of put in a discussion and we will develop a
11 consensus statement on those kinds of things for
12 timing and we'll bring that back at the next CCC
13 meeting.

14 We also noted that the topics were not
15 exactly organized. They had been added over time
16 and consequently, it's kind of strange that you
17 have some topics on science and then it falls back
18 to what the authorities of the Council are and it
19 goes back and forth so we were recommending that
20 those be grouped into those three target -- those
21 groupings of science and data issues, fishery
22 management issues and Council process and

1 authority and then have some prioritization among
2 -- within each of those groups and the
3 prioritization as is, as they were developed is
4 probably the correct one with the exception of
5 timing for FMP revisions. It was suggested that
6 that move up in the list.

7 We also suggested an addition to the
8 stock rebuilding topic to better describe what it
9 means to have a higher probability of rebuilding
10 if you are not getting there and how that might
11 impact various fishing communities. And more
12 importantly -- and of course you are not going to
13 be able to read this but it is in your report and
14 in our minutes--some new language to replace the
15 existing consensus statement on forage fish. And
16 this is in response, it really gets out some of
17 the comments that have developed around the Forage
18 Fish Conservation Act and it gets out
19 understanding that you really can't define a
20 forage fish based on various criteria or
21 description. And by not doing so, you could
22 potentially -- it's a liability to Council and to

1 Councils in that it could be determined by the
2 courts.

3 And so we've brought in some examples of
4 the way forage fish has been defined by the
5 different Councils and we believe that should
6 remain in the authority of the Councils on
7 defining forage fish in their FMP.

8 We noted a few other things, in our
9 existing consensus statement that requiring forage
10 fish to be taken into account in the stock
11 assessments and dietary needs of other fish and
12 mammals would require quite a bit more resources,
13 financial resources and research and we already
14 don't have enough surveys and stock assessments
15 done for the species that are already targeted and
16 that the fishing mortality in our current
17 assessments already takes care of, or addresses,
18 the forage needs of those species.

19 And lastly, that the Council should
20 retain the authority to determine which species
21 should require conservation management. Of
22 course, the Secretary can override the Councils

1 and making that determination but we noted that if
2 there is legislation that directs the preparation
3 of a fishery management plan, and the examples
4 were Shad and Herring, it does create conflicts
5 with existing management structures and
6 authorities.

7 So just to review, the next steps for
8 the committee is to revise -- sorry about that,
9 revise the working paper to include our new
10 revisions that we are suggesting, including the
11 forage fish consensus statement, have a standalone
12 executive summary to group the topics by the three
13 categories and add the new topic of timing for FMP
14 revisions and to continue refining the regional
15 Council perspectives. Every draft that we issue,
16 and there is an updated one in your background
17 materials, contains all the revisions and edits to
18 the different perspectives from the different
19 Councils. And this is just a picture of the corner
20 of my garage that I call my shop and another
21 picture from our Homer meeting. So that concludes
22 my report, Madam Chair.

1 MS. McCAWLEY: Thank you. We have some
2 questions here. Chris?

3 MR. OLIVER: That slide reminded me that
4 I haven't been to your place on Hesketh Island in
5 a while but that last slide, it looks like since
6 I've been there, you've developed a creative
7 little supplemental retirement program. Those are
8 poppies.

9 MR. WITHERELL: Madam Chair, this is
10 taken actually from the Homer Spit and not from my
11 own property.

12 MS. McCAWLEY: Alright, so Dave, would
13 you like to maybe back up to slide four and we'll
14 kind of take these topics slide by slide and see
15 if we can get some motions. So yeah, if you'll
16 stop there, are there any topics -- I mean are
17 there any questions for Dave?

18 So we have kind of three topics on this
19 slide. This is recommending that the introduction
20 be turned into an executive summary, recommending
21 the addition of a new topic, which is timing for
22 FMP revisions and then regrouping all of the

1 topics into these three different categories so
2 questions or comments on that?

3 Alright, if folks don't have questions
4 or comments, I'd be looking for a motion to
5 approve these suggested changes to the CCC working
6 paper. Yes, Bill?

7 MR. TWEIT: Thank you, Madam Chair, so
8 moved.

9 MS. McCAWLEY: Alright, we have a
10 motion. We have a second by John. Under
11 discussion. Okay, Anjanette, are you going to
12 type a motion for us --

13 MR. FREDIEU: We were just talking about
14 that. Do you want to just put a motion up if we
15 are just voting to approve it as is or do you want
16 to put language if we want to change anything.
17 Just a point of order.

18 MR. TWEIT: Madam Chair, if it helps, my
19 motion was those three bullets with the
20 accompanying topic list so my motion was that
21 slide.

22 MS. McCAWLEY: Yeah so Gregg is back

1 here writing that up. I agree, I think that maybe
2 we don't need to type it up unless it's a change
3 from what we are seeing on the slide so good
4 point. So once again, there was a motion to
5 approve those three bullet points that you see on
6 the slide there. That was seconded. Anymore
7 discussion? Yes, Eric?

8 MR. REID: I might have missed it and I
9 apologize in advance but are those listed in order
10 of priority under each bullet point?

11 MR. TWEIT: Madam Chair, Yes, that's
12 correct.

13 MS. McCAWLEY: You want to add some more
14 things there, Eric?

15 MR. REID: No, I don't really want to
16 add anything. I'd like to move the furniture
17 around on a couple of columns but I mean it's my
18 first day and I don't really want to get too out
19 of control but you know, we -- earlier in the day,
20 we did have a conversation about the issues that
21 the east coast, and particularly New England and
22 the mid-Atlantic are going to have with survey

1 data when the windfarms come which makes me want
2 to take stock assessment and survey data and
3 cooperative research and cooperative data
4 collection and move it up the list because the
5 only way we are going to be able to maintain our
6 statistically based survey that we've been doing
7 for decades is to figure out how to get industry
8 boats in those windfarms because the big low,
9 which is the government platform right now will
10 not be able to fit in there and that's critical
11 for us and I mean it's critical for us. I am
12 sorry for the rest of you but it's critical for us
13 so to me that's an important adjustment going
14 forward and we have to start figuring out our
15 methodology now because we have to build some sort
16 of -- we have to calibrate survey vessels and we
17 have to build a timeline now before the windfarms
18 are actually built so that's my reasoning for
19 wanting to move those topics up the line so there
20 you have it, Madam Chair. Thank you.

21 MS. McCawley: Thank you. Yes, Phil?

22 MR. Anderson: I know the question was

1 asked and answered but I'd like to ask it one more
2 time and make sure I understood the answer. These
3 are presented in priority order in these three
4 categories, is that correct?

5 MR. TWEIT: Through the chair? Yes,
6 they each -- each category has a priority within
7 that category and that's the recommendation from
8 the committee.

9 MS. McCAWLEY: Gregg?

10 MR. WAUGH: If I could ask Dave Whaley,
11 because I think this is one of the big uses is
12 other people looking in, Congressional staffers,
13 other people looking in. I wonder if we are
14 reading too much into this priority because
15 before, it was just sort of a compilation and I
16 don't know that you know, trying to sit here and
17 rearrange all of them would be productive and
18 whether that's going to have a lot of significance
19 where it shows up on that list and I don't know if
20 Dave has any feedback on that.

21 MR. WHALEY: I am torn. I can see both
22 arguments. The reason this was initially done was

1 to provide some perspective for legislators for
2 what the Councils thought about the major issues
3 and the reauthorization and at the time, it kind
4 of followed -- I think one of the bills that had
5 been introduced so the idea of reorganizing was to
6 put it into some bigger categories that were
7 easier to follow rather than bouncing back and
8 forth.

9 I don't know about prioritizing whether
10 that makes a big difference or not. I can argue
11 it either way.

12 MS. McCAWLEY: Alright, we've had a
13 suggestion to change up the order of the items in
14 the science and data issues. We've had a little
15 bit of discussion about maybe it doesn't really
16 matter as long as they are in these three broader
17 categories. More thoughts? More questions? Yes,
18 Phil?

19 MR. ANDERSON: Well, when I look at the
20 -- I support the creation of the three categories.
21 There are -- I think it leads us down, I am not
22 sure a productive path in terms of trying to

1 prioritize the various items in the categories. I
2 think we have made -- we've had deliberations and
3 made decisions around what are the priority items
4 from the CCC's perspective and they have place
5 them in these categories. I don't know that we've
6 -- at least we haven't had a lot of deliberation
7 and discussion to the best of my knowledge about
8 prioritizing these and I question the value of
9 going down that path.

10 For example, recreational data may be a
11 higher priority for one particular species but in
12 another species, the commercial data may be higher
13 priority and so I am reluctant to support having
14 us go down a path identifying all of these various
15 topics within these three categories and
16 prioritizing them because I don't think one size
17 fits all and there may be some cases where for
18 example forage fish might be a higher fishery
19 management issue in another circumstance and in
20 another, just an example so I think we could --
21 this would continue to be a very useful document.
22 It would clearly state to those that are

1 interested in our perspectives on the various
2 elements within the Magnusson Act where what we
3 deem to be the most important but I would stop
4 short of being specific that these are in priority
5 order in all cases.

6 MS. McCAWLEY: Yeah, that's a good
7 point. So let me try to summarize it. So you are
8 suggesting that we have these three topic
9 categories but maybe we don't necessarily say in
10 the document that say in the science and data
11 issues that they are in priority 1-7. It's just
12 the seven categories we have commented on within
13 science and data so I think you are suggesting
14 that maybe we don't prioritize within the three
15 topics?

16 MR. ANDERSON: That is correct.

17 MS. McCAWLEY: Okay, so I saw hands up.
18 I think Miguel, you had your hand up and then Marc
19 had his hand up.

20 MR. ROLON: I was going to say exactly
21 the same thing or even drop the numbers and just
22 put bullets.

1 MS. McCAWLEY: Okay, Marc?

2 MR. GORELNICK: Thank you, Madam Chair.

3 If this slide is our motion, the slide doesn't
4 make any reference to priority so -- and I am not
5 sensing a consensus around the table that those
6 should be the list of priorities so the motion is
7 probably fine as it is.

8 MS. McCAWLEY: Very good point. Anymore
9 discussion? Is there any objection to approval of
10 the motion which is -- the motion is to approve
11 those three bullets on the slide. Any objection
12 to that motion? Alright, motion carries.

13 Let's go on to the next slide, Dave, if
14 you can. Alright, so this is the updating the
15 stock rebuilding topic. So there is some language
16 there on the board. I am going to let folks spend
17 some time reading it and then ultimately we are
18 looking for a motion for approval of this. Tom?

19 MR. NIES: Well people are reading it
20 but it might be helpful to explain why we added
21 this. There was some discussion with the
22 legislative work group that our original

1 discussion of this topic assumed a level of
2 knowledge that everyone might not have and we felt
3 that this might help explain where we were coming
4 from.

5 MS. McCAWLEY: Thanks Tom. Marc?

6 MR. GORELNICK: Thank you, Madam Chair.
7 I think that the committee has done some good
8 work. It's been our practice in the Pacific
9 Council to have the full Council, have an
10 opportunity to review revisions to this working
11 paper so I just want to mention that we -- our
12 Council meeting is next week.

13 We have not yet had an opportunity to
14 review this or the revised forage fish definition.
15 I am not suggesting that there are any problems
16 with that but just as a formal matter, this is
17 something that we like to have the Council have an
18 opportunity to weigh in.

19 MS. McCAWLEY: Thanks, Marc.

20 MR. BURNER: And just a question with
21 that because other Councils may be in the same
22 position so I guess the CCC would be taking --

1 what the CCC approves here, there are some parts
2 of this that we would await each Council having
3 the opportunity to look at it, hopefully concur
4 with those actions. If not, then they'd come back
5 in May at the next meeting.

6 MS. McCAWLEY: Yes, Bill.

7 MR. TWEIT: Thank you, Madam Chair, so
8 then with the -- and there probably should be some
9 sort of action with the formal action then be that
10 the CCC recommends to each Council that they
11 consider this recommendation and the language, is
12 that what you're suggesting, Gregg?

13 MR. WAUGH: No. Just that the CCC
14 approve it but with the understanding that
15 Councils are going to have to have a chance to
16 look at it. Some operate more formally to where
17 they don't allow or their delegation here can't
18 approve on behalf of the Council so I think it's
19 helpful here to just have the CCC approve it but
20 it's with the understanding that several of the
21 Councils will need to run that by their Council.
22 If they approve, then we're fine but if not, we

1 pick it up at the next meeting so I don't think we
2 need to recommend it go to them, just let the CCC
3 approve it if you view it as sort of a conditional
4 approval until the other Council sign off on it.

5 MS. McCAWLEY: Alright, would someone
6 like to make a motion? Bill?

7 MR. ANDERSON: Thank you, Madam Chair.
8 So I will move for conditional approval that the
9 CCC accept the committee recommendation including
10 the revised text.

11 MS. McCAWLEY: Thank you, is there a
12 second? Seconded by John. Under discussion. Any
13 objection to this conditional approval? Alright,
14 seeing none, the motion carries.

15 Alright, Dave, you want to cue up the
16 next slide? Alright, so this is teeny tiny text
17 so hopefully you're on the CCC website and can
18 look at this on your computer. So this is the
19 revised consensus statement for forage fish so I
20 am going to give folks time to read that.

21 Alright, it looks like some people are
22 finishing up reviewing this. Comments?

1 Questions? Yes, Bill.

2 MR. TWEIT: Thank you, Madam Chair. It
3 seems to me that there are clearly a lot of
4 misconceptions about forage fish and I think
5 that's the root of a lot of this and while I think
6 the statement is helpful, I don't know that it's
7 going to provide the educational material that we
8 may be looking for.

9 I think the story -- so I am not
10 suggesting that we should change this but I am
11 wondering if in addition to that, maybe need to
12 produce something that's a little easier to
13 understand that just says -- while it may seem to
14 the lay person like it's a simple matter to define
15 forage fish, it's actually not. There are a lot
16 of misconceptions about that and then I think
17 there's as well a lot of misconceptions about what
18 it takes to manage forage fish and I am just
19 wondering if we are thinking about -- I guess I am
20 looking at Dave in particular because he is often
21 really on the spear of this trying to answer
22 questions, at least from the Congressional folks

1 that he deals with. It's this what's needed to
2 really help dispel some of those misconceptions
3 that I know you are really struggling with?

4 MR. WHALEY: I think this was written
5 primarily in response of the Forage Fish
6 Conservation Act but remember, this would be the
7 consensus statement followed by regional
8 perspectives where each region can provide more
9 detail and provide examples of what we are talking
10 about so this wouldn't be the only thing
11 describing forage fish position from the Councils,
12 does that make sense?

13 MR. TWEIT: It was behaving
14 interestingly. It does but I also. I am sort of
15 cognizant that other folks who were interested in
16 forage fish issues often have sort of glossy 3 by
17 5 brochures about how the fate of the world
18 depends on the health of forage fish and we have a
19 three page sort of treatise that really goes into
20 a lot of very useful depth and detail but I am
21 wondering if we shouldn't also be ultimately
22 thinking about just a fairly simple forage fish,

1 what they are and what they aren't and why no one
2 size fits all definition or one size fits all
3 management prescription is appropriate.

4 MS. McCawley: The committee did talk
5 about that a lot. I can tell you that the
6 committee struggled with trying to -- first we
7 thought let's just define forage fish but that
8 turned out to not be an easy exercise and so I
9 think that we somewhat agree with you that there
10 is not really something easy here and the more we
11 try to simplify, the more complicated that we kept
12 coming up with all these caveats for it. Yes
13 this, not that, yes this, what's in, what's out?
14 So that's why this is so lengthy. You could
15 approve this and then since it would be, if we do
16 it like the last motion, a conditional approval,
17 then you could ask that committee to go back and
18 maybe have another overarching statement that goes
19 with this but I agree, each of the Councils has a
20 position or more in depth discussion underneath
21 this so it's just a thought but I agree, it's not
22 simple. The reason it's so lengthy is we thought

1 oh this will be easy but it was very complicated.
2 It got complicated quickly. Gregg?

3 MR. WAUGH: Thank you, Madam Chair.

4 This is one of the topics that Dave asked each of
5 the Councils to write up a one page document on so
6 we provided that information. What we could do is
7 task a communications group with taking that and
8 putting something together because I think part of
9 the problem was you've got a bunch of technocrats
10 trying to write something in normal language and
11 never works too well.

12 MS. McCAWLEY: Bill?

13 MR. TWEIT: That approach and after
14 we've done this and after each Council has
15 provided their one pager, turning it over to the
16 communications folks and seeing what they can do
17 with it.

18 MS. McCAWLEY: Yes, alright, Tom.

19 MR. NIES: I am actually not in favor of
20 that. I am concerned that this is a very
21 technical issue and it's going to be extremely
22 complicated for communications personnel from all

1 of the Councils to figure out what it is that they
2 are trying to say. If we can't come up and say
3 what's the clear message we are asking them to
4 deliver and this -- the fact that the legislative
5 work group struggled to come to agreement on this,
6 I think we are creating a problem that the
7 communications group could spend months on and not
8 be able to resolve.

9 I mean I hate to go back and look at
10 things, but I remember when we tried to just
11 create a map of what the Council foundries were
12 and that took us months to get done and how to
13 represent that so I am actually not in favor of
14 asking the communications group because I don't
15 think we've defined what it is we want them to
16 communicate yet.

17 MS. McCAWLEY: Alright, more discussion
18 on this. Yes, John?

19 MR. GOURLEY: I guess I kind of
20 disagree. I like the way it is. It's -- forage
21 fish was a difficult issue. We struggled over it
22 and basically you have several bullet points that

1 explains what forage fish are, the difficulty and
2 the problems in managing forage fish and then you
3 come up with the very simple conclusion.

4 The text preceding the conclusion
5 justifies the conclusion. If you try to get
6 something really simple, I think there is going to
7 be problems in different people again starting to
8 interpreting it in different ways and we are
9 starting out where we were in the beginning.

10 To me, if you take each individual
11 paragraph, it states very plainly what the problem
12 is but that's just my opinion.

13 MS. McCAWLEY: Thank you, good point,
14 all good discussion. More thoughts? More
15 questions? More comments? Ultimately, we would
16 like to have a motion. We could do one similar to
17 the previous motion that was a conditional
18 approval of this statement if folks are willing to
19 do that but I'll look around the room. Alright, I
20 see hands up. Marc and then Bill.

21 MR. GORELNICK: I just have a comment
22 here and I am on the committee so I guess I've got

1 a role in the way this came out. We've got five
2 paragraphs here and the first four paragraphs
3 discussed the difficulties associated with other
4 defining forage fish or accounting for the diet
5 needs of other animals, other marine animals and
6 that's all that's fair but the concluding
7 paragraph essentially says the Council should make
8 all these decisions. Not so much the Council
9 should decide which fish are forage fish but
10 Council should decide whether we even need to
11 protect forage fish.

12 I don't think that's really supported by
13 the paragraphs above it and I've misinterpreted
14 that, I apologize but I don't see the last
15 paragraph accurately summarizing the first four
16 paragraphs.

17 MS. McCAWLEY: Alright, fair point.
18 Tom?

19 MR. NIES: So I am not sure the last
20 paragraph was intended to summarize the first
21 four. As Dave or -- one of the Daves pointed out,
22 this language was originally developed in part

1 because of draft legislation that addresses forage
2 fish and that draft legislation included a
3 specific comment on management of these three
4 species -- two species, sorry, and the legislative
5 work group was concerned and this expresses the
6 opinion that the Councils should retain the
7 decisionmaking authority on what to manage as
8 opposed to having it directed by legislation so
9 perhaps it could be clarified somehow but that
10 paragraph really wasn't intended to summarize the
11 other four.

12 MS. McCAWLEY: Marc?

13 MR. GORELNICK: Just so I -- thank you,
14 Madam Chair, and just if I understand that, the
15 last paragraph basically explains why we shouldn't
16 be dictated to as to which species we should
17 protect. It's not a rejection of Congress'
18 ability to tell Councils to protect forage fish
19 generally, even if they leave the definition up to
20 the Councils.

21 MR. WAUGH: I think so -- there were two
22 Councils that were concerned about that primarily

1 so I can only speak for one of them.

2 MS. McCAWLEY: John, I saw your hand up.

3 MR. GOURLEY: I guess the last paragraph
4 maintains the flexibility or it should maintain
5 the flexibility of each Council determining what
6 is a forage fish and how they are going to manage
7 it and that pretty much fits with MSA. I don't
8 see a problem.

9 MS. McCAWLEY: So just a couple of
10 points here. If there are people that have some
11 concerns, we can throw those on the table now; we
12 have time. And then the people that are on the
13 committee can go back and look at this language
14 and bring something back on Thursday when we are
15 getting down into some of the other committees so
16 if people have some concerns like what we've
17 discussed with that final paragraph, then maybe
18 get those on the table now. We don't necessarily
19 need a motion right this minute but then the
20 committee can take it back, see if we can make
21 this better and bring something back later in the
22 week.

1 So if you are hesitant to approve this
2 then maybe tell us a little bit about why or what
3 the committee can do to make it better. Marc?

4 MR. GORELNICK: Madam Chair, thank you.
5 I think with John's clarification, unless folks
6 think that -- I may have read some ambiguity into
7 the language that may have not been there and
8 that's why I apologized when I made my first
9 comment. So long as we understand that, to not be
10 an objection to the concept of protecting forage
11 fish, even if we leave the details up to the
12 Councils, I don't have a problem with the
13 language.

14 Perhaps someone else -- if folks think
15 that that language accurately reflects that then
16 we don't need to go back and discuss it. I just
17 want to make sure I am not the only one with that
18 concern.

19 MS. McCAWLEY: Alright, Bill, I think
20 you had your hand up.

21 MR. TWEIT: I'll move that the CCC
22 conditionally approves the working paper update

1 and the consensus statement for forage fish.

2 MS. McCawley: Okay, we have a motion,
3 do we have a second? Seconded by John. Under
4 discussion. So once again, if you are hesitant
5 about this then some specific direction to the
6 committee about what the committee can do to make
7 it better or what they could address that would
8 get you on board. That would be helpful here.
9 More discussion here on this motion, more concerns
10 that people have.

11 Alright, is there any objection to
12 approval of this motion? Alright, seeing none,
13 that motion stands approved. Alright, so unless
14 there are other points for Dave, thank you for the
15 report out from this legislative work group and we
16 are going to -- oh yes, Phil?

17 MR. Anderson: Thank you, Madam Chair,
18 just so we are clear on the process, we
19 conditionally approved two topics. Councils have
20 the latitude to go back and review them and
21 presumably we would take that up in May at our
22 next meeting with the idea that trying to reach a

1 conclusion on them, is that correct?

2 MS. McCAWLEY: That's correct. Thank
3 you for that summary, Phil, that's helpful. Yeah,
4 Gregg?

5 MR. WAUGH: And so if they feel there
6 are no problems, then once we hear -- and I think
7 it's you guys, is it the mid-Atlantic also that we
8 will need to -- no? So it's just the Pacific. So
9 once we hear from you guys, if it's agreement,
10 then those changes can be made and we can publish
11 an updated version of the working paper. If you
12 guys have changes, then it would come back in May,
13 right Dave Witherell?

14 MR. WITHERELL: No, Madam Chair. We
15 have always viewed this working paper as a living
16 document so changes are made up to the point of
17 right before the CCC meeting so in this case with
18 the forage fish consensus, David, we would include
19 that, as adopted, for our next issuance prior to
20 the CCC meeting.

21 If there are issues that the CCC directs
22 the committee to work on between now and May, we

1 will do so. Otherwise, we will simply update the
2 working paper with what you've adopted today and
3 that can be revisited in its entirety by the CCC
4 in May.

5 MS. McCAWLEY: Alright, yes, Phil?

6 MR. ANDERSON: Sorry. So not wanting to
7 leave Dave Whaley with nothing, and maybe he has
8 something and I am not sure what the something is
9 but -- so in the event that he needs something, we
10 have this -- this is posed in the form of a
11 question.

12 So we have this document that's been
13 tentatively approved. He's also asked for papers
14 from each one of the Councils on forage fish,
15 which would augment this piece. Just -- I am a
16 little bit hesitant leaving this for six months if
17 I am counting the months correctly where he has
18 nothing that's been approved by us for him to
19 convey in terms of communicating with
20 Congressional staffers or whomever on this so I am
21 just posing the question, could we have this --
22 could we authorize him to utilize this along with

1 the papers we provided individually on the subject
2 of forage fish if there is some suggestion to
3 change this through more deliberations. We can
4 take that up when the time comes but I am just
5 apprehensive about leaving him without anything
6 from us on this important topic.

7 MS. McCAWLEY: So, and I don't want to
8 speak for Dave so I considered the conditional
9 approval, this, along with the one pagers that
10 each Council was submitting to him something that
11 he could go ahead and use so unless we hear back
12 that your Council has some issues with it, I would
13 consider conditional approval, meaning that Dave
14 could go ahead and use this right now along with
15 the one pagers that the Council submitted but I
16 just want to make sure that that's enough for you,
17 Dave Whaley?

18 MR. WHALEY: That's good, in addition, I
19 also have at least two Councils that have
20 commented, two members of Congress on the bill
21 that was introduced so I have that as well so
22 yeah, that combination gives us a lot of ammo for

1 helping staff understand the concerns of the
2 Councils.

3 MS. McCAWLEY: Okay, alright, I see
4 thumbs up from fill. Alright, anymore discussion
5 on this? Thank you to the committee, thank you,
6 Dave. Thank you both Daves. So I think we are
7 going to leave this topic and we are going to pick
8 up something from Thursday. I believe that we are
9 going to go to the scientific coordinations
10 subcommittee workgroup and we'll ask John
11 Carmichael to come to the table.

12 MR. CARMICHAEL: Alright, thank you,
13 Madam Chair. So I'll give the report of the
14 scientific coordination subcommittee.

15 So just a refresher, the last meeting
16 was SCS meeting 6 and remember, these are formally
17 known as the national SSC meetings; now they are
18 the SCS meetings, held in 2018 in San Diego. The
19 report was finalized and copies were made out to
20 Councils. I know we got ours just a few weeks ago
21 and there was a lot of interest at our SSC meeting
22 that was going on when we got them so people were

1 glad to get the reports. Meeting seven is planned
2 for August 4th through 6th in Sitka, Alaska,
3 hosted by the north-Pacific. Planning is
4 underway. As has been done for all of these
5 meetings, there is an organizing committee. It's
6 being led and supported by the host Council.
7 There's representatives from the staff and SSCs of
8 each Council as well as NMFS that have been
9 working on the topics and the process, the host
10 Council and the logistics in the meeting details.

11 Let's see, the arrangements are under
12 way. I think the north-Pacific has a location in
13 mind penciled in. A great looking spot it seems
14 in Sitka. There has been a lot of discussion by
15 the group now on the topics and so I'll highlight
16 them in the next slide and then the next step is
17 to begin working on the speakers and the
18 presenters. The focus questions which drive the
19 discussion and the invitation list and that's
20 always a big test in the organizing community to
21 figure out who needs to be there balancing
22 interests with available space and cost.

1 The topics are pretty similar to what
2 was discussed last time when we met in May so I'd
3 say these have merged into what we'd be talking
4 about. First off, how to incorporate ecosystem
5 indicators in through the stock assessment
6 process, developing information to support
7 management of interacting species in consideration
8 of ecosystem based fisheries management and then
9 how to asses and develop fishing level
10 recommendations for species exhibiting
11 distributional changes. I think by now most of
12 the Council reps and the SSC reps have had a
13 chance to run these by their respective SSCs and
14 get feedback on them. I know there is a lot of
15 support from our SSC at least in the south
16 Atlantic for these topics and a lot of interest in
17 the meeting which is always good to see.

18 So that's pretty much the gist of the
19 report and I expect we will be hearing more from
20 the north-Pacific as the meeting gets closer and
21 arrangements get more solidified and hopefully
22 they get the remainder of the funds that are

1 necessary to make it happen.

2 With that, any questions, I would be
3 glad to try and answer them.

4 MS. McCAWLEY: Questions for John? Tom?

5 MR. NIES: I probably should have asked
6 this question in May rather than now. I guess I
7 am struggling to understand a little bit what this
8 SCS is doing. Is it -- I mean I look at the first
9 bullet point, for example and this, to me, sounds
10 like this is something that a stock assessment, a
11 national stock assessment working group would
12 wrestle with as opposed to Council SSCs and it
13 seems like rather than focusing on how the SSCs
14 can provide information to the Councils or how the
15 Councils can better use information, it's
16 wondering into how can the science centers do a
17 better job and I don't know, is that the role we
18 want for his SCS? I believe we approved these
19 topics so I guess the short answer is yes but --
20 at least for this meeting but I guess in the
21 future it seems like that ought to be something we
22 want to talk about a little further. Maybe we

1 should wait until SCS, whatever the next one is,
2 9? 8?

3 But I don't know if you have any
4 thoughts on it, John?

5 MR. CARMICHAEL: I mean I do. I have
6 some but I will say that that is probably some of
7 the gray area that the organizing committee has
8 talked about is where do you cross the line and
9 perhaps get into something that's so technical,
10 it's not of interest or its not appropriate to the
11 SCS as it exists.

12 I think one thing that they feel is that
13 given that in most all instances, SSC members do
14 play a role in stock assessments, that they feel
15 there is some justification for them to talk about
16 some of these subjects but I do think whether or
17 not it gets too far field would probably come down
18 to the focus questions and what direction they
19 take on that topic so I think the advice to make
20 sure that it stays within the lane of the SSCs
21 would be good advice for the organizing committee
22 moving forward and not to get too technical so

1 that you are really in, as you said, national
2 stock assessment workshop topic.

3 I think the last meeting dealing with
4 MSE showed them getting pretty deep in the
5 technical stuff into things that SSCs and science
6 centers work on together. To me, they're a little
7 more comfortable in going in that direction but
8 I'd say in these topics they wanted to get a
9 little more than the other two about things that
10 are much more clearly within the SSC realm in
11 their job of making recommendations.

12 MS. McCawley: Bill?

13 MR. Tweit: Well, as I think about the
14 first bullet, just as an example. Our stock
15 assessment folks have been sort of on their own,
16 sort of as they see fit in developing approaches.
17 There wasn't a lot of consistency and it was our
18 SSC that provided the guidance back to the stock
19 assessment (inaudible) wait, if you are going to
20 do this, this needs to be thought through, this
21 needs to be done systematically. Here are some
22 guidelines, from starting with and as a result we

1 have a somewhat more coherent -- it's still very
2 much pioneering but at least as I view this, it's
3 the SSCs that provide really sort of the Council
4 perspective and Council needs back to the stock
5 assessment bio so I think having a conversation
6 between the SSCs about this at a national level, I
7 think is very important and I don't view that as a
8 science center function per se because they don't
9 have the same level of linkage to the Council
10 process as the SSC.

11 The SSC is really the -- has been, on
12 several of these, our Council voice on how the
13 actual work at the science centers can proceed so
14 I don't view this as gray as you, I view this as a
15 chance for our SSC to bounce some of their
16 thoughts off of their peers on these issues and
17 see if we are all able to at least share
18 experiences.

19 MS. McCAWLEY: More comments?
20 Questions? Thoughts? So, John, I don't think any
21 action is needed today. This was just an update.
22 I see another hand. Mike?

1 MR. BURNER: Thank you, Madam Chair. As
2 John pointed out, the proceedings from SCS six
3 were mailed out to most everyone around the table.
4 I did manage to fit a few in my luggage that I'll
5 bring down tomorrow. I neglected to bring them
6 down but that said, the production of the
7 proceedings was quite difficult and doing them in
8 a hard copy was also an editing burden in terms of
9 expense and in terms of producing it and shipping
10 it et cetera so I would just encourage for the
11 next round, unless there are objections around the
12 table, to consider doing that in electronic
13 format. It's on our website, as is an electronic
14 format and that would be one piece of advice I'd
15 pass on to the seventh version of this.

16 MS. McCAWLEY: Thanks for that. So if
17 folks have objections to that being only in
18 electronic format, then speak up about it,
19 otherwise it looks like we might be going to
20 electronic and people can still download it if
21 they wanted a hard copy.

22 Alright, any other questions, comments,

1 concerns? Alright, thank you, John. I think next
2 we are going to move into the electronic
3 monitoring workgroup and I believe we are going to
4 go to Mike on that.

5 MR. BURNER: Thank you, Madam Chair. I
6 don't have a PowerPoint presentation, although it
7 might be helpful to put on the screen the report
8 that our Executive Director had submitted. There
9 are just a few figures in the directive that might
10 be helpful as I go through some of the points of
11 the report itself.

12 Our Director, Chuck Tracy asked that we
13 get this workgroup going again at the May CCC
14 meeting, partly in response to some of the
15 challenges that we've had on the Pacific Council,
16 Mr. Anderson spoke to some of those at the
17 beginning of the meeting. A lot of those concerns
18 have to do with costs, as he mentioned in our
19 ground fish fisheries, particularly are widening
20 in our bottom trawl fisheries. We've had an EFP
21 going for quite a while. The cost of those EFPs,
22 the cost structure of that is a little different

1 than what came out in the cost allocation
2 directive, some of that was borne by national
3 fishery services. Our Council looks to move to
4 regulations which are in place for this fishery
5 that take effect in 2021.

6 We are getting a lot of feedback from
7 both our electronic monitoring advisory group as
8 well as the Council as well as industry members
9 that the costs of this program are starting to add
10 up and the burden on the industry might be so much
11 that the benefits of this program as a potential
12 replacement of human observers might be eroding
13 away so I guess I just bring that up as an
14 underpinning of some of the discussions.

15 We did have this on our agenda for this
16 September meeting. I facilitated the EM meeting
17 there and I sat in on this workgroup meeting, not
18 so much because I am an expert on EM but mostly to
19 try to get myself up to speed for this
20 presentation so on that note, I'd welcome any
21 input from the rest of the table if I misspeak on
22 some of the EM particulars.

1 So for those ecosystems -- excuse me,
2 the EM workgroup that -- we had a webinar in
3 October. It was pretty well attended but the
4 focus of that discussion was the procedural
5 directive that's out. It was mentioned by Alan
6 earlier, it's out for comment through December
7 31st of this year. It's on our Council's agenda,
8 both in September and we will probably just touch
9 on it again at our November meeting next week but
10 that was the focus of the workgroup meeting
11 although there's a lot of issues out there by the
12 EM. That's going to be the focus of the report
13 that I have up here.

14 That said, if you could scroll down,
15 there's a graphic later on in the report that sort
16 of shows this data retention period, that's the
17 focus of the current directive. Keep on going
18 down there. Right there, thank you. So this is
19 primarily what the workgroup focused on in the
20 October webinar and it's the basis for the report
21 that was in your briefing materials and the basis
22 for the proposed letter that, if there is a

1 consensus around the table that we can send the
2 National Marine Service by the end of the year.

3 So on this graphic, I am not going to go
4 into great detail about this. I believe we heard
5 a little bit about this back in May at the CCC
6 meeting. Our Council has been briefed on it a few
7 times but the idea here is how long does the
8 information collected through an EM program, how
9 long does that have to stay on record and it's not
10 a trivial matter, we're talking about terabytes of
11 information, lots of data, lots of video collected
12 and so retention of that data does become quite
13 costly.

14 As laid out in the directive here in
15 black is the fishing season presumably, in this
16 example it would be a year- long fishing period.
17 Obviously that's when the data is collected and
18 held and following that period is this interim
19 period that would be in gray that would continue
20 for some period after the fishing season ends that
21 would require retention of the data but would not
22 start the clock, so to speak, on when that

1 retention period would end. It would be an
2 interim period that would allow some time to add
3 up the date, add those numbers, compare those
4 numbers to things like annual catch limits or
5 other fishery limitations.

6 Once that interim period is over, that's
7 when the clock starts on a retention period. The
8 length of that interim period has not been
9 specified and was sort of one of the focuses of
10 the discussion of the workgroup.

11 Following that interim period up there
12 in the orange-ish color would be when the
13 retention period would start and the directive is
14 recommending a 12 month retention period so if you
15 add all that up from the start of the fishing
16 season through the undefined interim period, as
17 well as the 12 month retention period, it's a two
18 plus year timeframe that potentially although this
19 data would need to be stored, additionally what
20 came up on the workgroup also came up at our
21 ecosystem -- I keep saying ecosystem, our EM
22 workgroup discussions at the Council was that this

1 could also start to accumulate, right? Because
2 the following year, you are going to start fishing
3 again while you've got data from the previous
4 fishing year that needs to be stored somewhere,
5 you're also collecting data in your following
6 fishing season, assuming the EM program continues
7 for that fishery and there's participants and such
8 so it's not a trivial matter to store all this
9 data and as the cost allocation directive has
10 pointed out, the idea being this would be born as
11 an industry expense and it's given folks in our
12 region quite a bit of concern, not only because
13 the concerns about expenses but there are a lot of
14 unknowns there in our Council. In November we'll
15 try to grapple with those again but it's kind of
16 hard to pin down exactly what those expenses are
17 moving forward but --

18 So with that said, the workgroup focused
19 on this retention procedural directive in the
20 report. I won't go through all the language but
21 there is some language from above the heading on
22 the first page all the way down to the heading on

1 the third page that could be used as a basis for
2 CCC consensus position if that's the agreement of
3 the group that we could send to National Fishery
4 Service.

5 In short, I guess I'll just summarize
6 the main points that the workgroup recommended.
7 There were three of them in that write up. The
8 first, in terms of coming up with more refined
9 recommendations than what that interim period
10 would be so the period after fishing stops and the
11 start of the 12 month retention period.

12 The group felt that in determining what
13 that should be the main criteria should be in the
14 use of that data to monitor catch in terms of its
15 -- how well it meets the ACLs and other allocation
16 or fishery benchmarks out there so the retention
17 period would start once the Council and the
18 National Fishery Service has used that information
19 to add up catches and make sure they stay within
20 our management frameworks and harvest
21 requirements.

22 The second recommendation from the

1 workgroup for the CCC to consider was that the --
2 this minimum retention period of the 12 month
3 start no later than three months after fishing.
4 So in other words, that gray period or that
5 interim period between when fishing stops and the
6 retention period starts would be no greater than
7 three months. And the workgroup also suggests, as
8 a recommendation that the final storage directive
9 incorporate national fishery service decisions and
10 policies regarding federal records data
11 confidentially accessed and ownership of the
12 stored data, both on the CCC workgroup call and
13 within our Council there have been some concerns
14 about the cost of these and the treatment of these
15 records once they become a federal record, what is
16 the ownership of those, how are those treated,
17 what's the confidentiality and the access of
18 those.

19 So those are the three highpoints of the
20 recommendation of the letter. I'll give you all a
21 chance to read that letter and whether or not the
22 Council -- the CCC adopts that as a consensus

1 position is yet to be seen but again, the period
2 ends at the end of the year for comments on that.

3 I guess I would add also the workgroup
4 discussed a couple of other things towards the end
5 of the call. We've included in the report, one of
6 them is sort of from a Pacific Council perspective
7 specifically. There is a program in the North
8 Pacific in the Magnusson Act that is sort of a
9 pool of money to cover observer programs and the
10 like. I am not an expert on that program but the
11 PMFC, our Council has looked at that as something
12 that could potentially help our region as we look
13 at costs, particularly those costs that are borne
14 on the industry that if there was a shared pool
15 that would help -- not so much help with costs of
16 just the traditional human observer program but
17 also help with the cost of not only storage
18 requirements but also the review of the data. We
19 are under the understanding from regulations that
20 there is going to be a third party requirement to
21 review the video and compare that to logbooks and
22 make sure everything is square and that again also

1 has some costs so the Pacific Council is
2 interested in looking at potentially ways which
3 that legislative piece in the north Pacific could
4 be expanded.

5 That saying, we -- recognizing that
6 there are limitations on lobbying and such, we are
7 not coming to this table expecting this consensus
8 position to be sent off to any of the legislators.
9 At this point, we were just kind of working what
10 the sense around the table is, if there is
11 interests around the table to expand that program
12 beyond the north Pacific at this point.

13 The other question that we've had that
14 has come up from our region is regarding once some
15 of these electronic monitoring data are -- become
16 a federal record in that they are called up either
17 to verify catch or they are part of a case, is it
18 the expectation that National Fishery Service
19 would use cost recovery funds to offset some of
20 the costs of retaining that data once it becomes a
21 federal record so again that's not necessarily
22 something that we were asking for this group to

1 weigh in on relative to the data retention
2 procedural directive that's out for review at this
3 point but something that we've talked about as a
4 region and thought we'd share with you folks is
5 one of our concerns so that's where the report
6 concludes.

7 In terms of action here, again, we have
8 this report that was in your briefing materials.
9 The bulk of it has a bunch of questions that we
10 identified on the call that we couldn't quite
11 answer as well as those three positions that I
12 went through a minute ago so if it's the will of
13 the CCC, that could be on the letterhead of all
14 the Councils and sent down to National Fishery
15 Service.

16 So with that, I'd take any questions. I
17 hope that made some sense.

18 MS. McCAWLEY: Thanks, Mike. Questions?
19 Tom?

20 MR. NIES: Thanks, Mike. I guess I've
21 got a question, I think on the second
22 recommendation. I believe it was the second

1 recommendation in regards to the start of the
2 minimal retention period, we'll start no later
3 than three months after the end of the fishing
4 season or year.

5 Now, the agency's directive for the
6 minimum retention period says it's the period
7 where the EM data is used to monitor catch against
8 some type of quota allocation or ACL.

9 So if we assume that that's the logic
10 for this minimum retention period, did the EM
11 working group identify whether all regions are
12 able to complete that work within the three months
13 period that was proposed with the minimum
14 retention period by the working group or is the
15 working group suggesting that the minimum
16 retention period should have some different
17 rationale for its (inaudible)?

18 Now the reason I ask that is because
19 just a specific example, our ground fish fishing
20 here ended April 30th and we got the final report
21 on the ACLs yesterday so that's -- they can't get
22 it done in three months -- I shouldn't say can't.

1 They didn't get it done within three months this
2 year anyway so I am curious whether you were
3 suggesting the rationale for the retention period
4 should be changed or whether it should just be
5 arbitrarily three months and NMFS should get all
6 their catch reporting and accounting done and
7 whether that's really feasible.

8 MR. BURNER: Thank you, Madam Chair,
9 thank you Tom for the question. We did not go
10 region by region and discuss how long it would
11 take to do all that accounting against annual
12 catch limits. Three months is sort of a short
13 timeframe for that.

14 I know even on the west coast for some
15 of our fisheries that are highly monitored, we do
16 require a little bit longer timeframe than that.
17 I think part of the thinking there was to have a
18 maximum. We begin with cost as the primary driver
19 there and with the expectation that that just
20 starts the 12 month retention period, it doesn't
21 mean that after that three months, the data goes
22 away.

1 I also think that the workgroup wasn't
2 necessarily suggesting that there is a one size
3 fits all. It might be a regional specific thing
4 in terms of what the interim period might be but I
5 think the underpinings of the three month
6 requirement was to minimize the length of the
7 entire retention period which could be -- at that
8 point would be over two years.

9 MS. McCAWLEY: Alright, questions?
10 Comments? Yeah, Bill?

11 MR. TWEIT: Thanks, Madam Chair. Mike,
12 it was my understanding the procedural directive
13 can't take effect though until there is also
14 rulemaking by National Archives or some other body
15 that actually implements -- maybe I should be
16 asking Sam this. Is that correct? Is there
17 another federal entity that also has to engage in
18 rulemaking in order to modify the current federal
19 records requirements?

20 MR. RAUCH: So there is a difference
21 here between the policy on retention by private
22 entity or third party with the fisherman and

1 retention, when it becomes a federal record. So
2 in various parts, the records are not federal and
3 this policy would apply to that.

4 To the extent that they are federal, the
5 National Archives sets the retention policy for
6 that and we are engaged in a modification. There
7 is a process that you can go through to set the
8 federal records policy with the Archives. So that
9 is a rulemaking of a sort that we are going
10 through with the Archives to try to take what
11 would normally be a six year or longer retention
12 policy if it's a federal record and shorten it to
13 something less but that's up to the Archives who
14 maintain federal records policy and it only
15 applies once it's a federal record. These other
16 things would apply even if they're not a federal
17 record.

18 MS. McCAWLEY: Go ahead.

19 MR. TWEIT: Thanks, and I recognize that
20 only -- for most programs, only a minority of the
21 actual EM data would be turned into federal
22 records but it still could be over time,

1 particularly because it's currently five years for
2 those, correct?

3 MR. RAUCH: Six years.

4 MR. TWEIT: Sorry, the question is will
5 the agency sort of keep us surprised on that as
6 well because that is another cost effect?

7 MR. RAUCH: Yeah, that's our intention.
8 I think we have kept you up to date when we've had
9 a briefing on this policy. We've included our
10 efforts to do that. That's not a rulemaking that
11 we control but I think we were trying to keep you
12 up to date on that and it is, our intention is to
13 significantly shorten the time required by the
14 Archives as to how long we have to retain these
15 records but we will keep you up to date as that
16 process goes forward.

17 MS. McCAWLEY: Bill?

18 MR. TWEIT: The reason I was asking that
19 is I was just thinking that a CCC position and
20 comment to the agency on the agency's policy
21 directive might also suffice for CCC comment to
22 National Archives for part of their rulemaking.

1 That's something that we may want to weigh in on
2 that as well when the time comes.

3 MS. McCAWLEY: Alright, so let's
4 pleasure the group here. Do we want to provide
5 our comments in a letter? Do it before the end of
6 the year? There were some recommendations.
7 Thoughts?

8 MR. WAUGH: When I spoke to Chuck about
9 this. My suggestion was to put the items that the
10 group was recommending become CCC positions where
11 they are recommending the CCC do something or take
12 a position in bold.

13 So those are in bold so it would seem we
14 need to determine whether the CCC is okay with
15 those recommendations. Maybe we can talk about
16 any -- that people have questions about and then
17 if we are in agreement, then get a motion to
18 accept all of the recommendations or the ones that
19 we don't have concerns with.

20 MS. McCAWLEY: Tom?

21 MR. NIES: I guess I had a concern with
22 the recommendation that the minimum retention

1 period be no longer than three months. It's not
2 necessarily that I think three months is too short
3 or too long but it just seems like an arbitrary
4 number.

5 I would be more comfortable if we -- I
6 think the agency actually tried to explain why
7 they want a minimum retention period. I am not
8 sure that explanation is convincing but I think if
9 we were to offer an alternative for what we think
10 the purpose of the minimum retention period should
11 be and explain that, it might be a stronger
12 argument.

13 Now, I guess I am unclear on really what
14 the minimum retention period is for which makes me
15 question what the length should be, whether it
16 should be three months or longer.

17 MS. McCAWLEY: Mike or Phil? I see a
18 microphone on though.

19 MR. BURNER: I'll take a stab at that
20 since I gave the first answer to the question.
21 The minimum retention period is the 12 month
22 period that's defined in the directive. What the

1 maximum of the interim was recommended to be three
2 months. I think that was somewhat arbitrary in
3 its choice but the idea being to limit the overall
4 retention period to keep that to a streamline.

5 If the group feels three months is not
6 an appropriate number or if number of months or if
7 there's another suggestion, I guess we could
8 entertain that but --

9 MR. NIES: I apologize for misspeaking,
10 I meant -- I was unclear why the interim period
11 was three months, what the rationale for that was?

12 If we are concerned about overall time
13 period, why don't we say the minimum retention
14 period should be nine months -- I am sorry, 12
15 months from the end of the fishing year, which
16 would put a cap on it.

17 MR. BURNER: But --

18 MS. McCAWLEY: Go ahead.

19 MR. BURNER: Madam Chair. But I
20 understood the concern to be that the interim
21 period, if it's too short, and three months being
22 too short doesn't allow time for things like ACL

1 accounting and the like so if there is minimum
2 retention period started right at the end of
3 fishing that would reduce that even further so.

4 MR. NIES: Yes. I struggle to
5 understand what is supposed to be accomplished by
6 the interim period and why we define it and if
7 it's for ACL accounting, then that varies quite a
8 bit from region to region and so for us to come in
9 and say arbitrarily that it's three months, that
10 doesn't solve the agency's problem. They want a
11 period after that accounting is over with. So I
12 struggle with that.

13 This whole idea of interim periods,
14 minimal attention periods, if you buy the argument
15 that the interim period is for ACL accounting,
16 then we have to recognize that there are some
17 regions where it doesn't happen in three months.

18 Now maybe the way you address the
19 retention period is you have a flexible interim
20 period and you have a fixed end date after that so
21 if your interim period is three months, then your
22 retention is nine months later, it's a year after

1 the fishing year. That's the maximum or 15 months
2 later, or whatever it is. I just don't think
3 we've made a strong argument for what we are
4 trying to do here except reduce costs.

5 If we want to reduce costs, let's say we
6 want to fix the time period after the fishing year
7 where everything -- where the retention stops. If
8 the agency gets everything done in two months,
9 well then that's ten months long. If the agency
10 takes ten months, well that's two months long.
11 Then we are capping it somewhere, rather than
12 having these floating dates going around.

13 MS. McCAWLEY: Mike?

14 MR. BURNER: Thank you, Madam Chair. I
15 think some of your concern is why the workgroup
16 had gone to the three month period. You could
17 have the language soften to the -- you could tie
18 it to the ACL accounting or whatever fishery
19 management accounting you need and let each region
20 work that out but the language then would get a
21 little softer and I think the idea would be given
22 some of the concerns from industry and some of the

1 concerns about cause, the idea was to put a three
2 month bound on it.

3 At least in the Pacific coast, I think
4 part of the thinking would also come along the
5 lines of a lot of this data. A lot of the EM data
6 is there to confer logbook data that's already
7 existing so after the three month period, you
8 wouldn't exhaust your ability to go back and do
9 your ACL accounting. It would just simply
10 minimize the amount of time before the retention
11 period started so that it couldn't just a
12 negotiated or any hang ups in ACL accounting
13 wouldn't extend the cost borne on the industry.

14 Now granted, we probably could have done
15 a little bit more homework of going around the
16 region to see whether or not three months fit
17 everyone needs. It is a little tight for that
18 regard but I don't think that the intention would
19 be that after this interim period, ACL accounting
20 would not continue and could not continue to
21 occur. I just think that the three month period
22 would be a maximum as a cost saving. If it

1 doesn't fit regions, then maybe we can soften that
2 language so that it's not tied to three months,
3 it's more tied to a goal of final catch
4 accounting.

5 I think the concern there was though
6 that that could, if it's undefined and it could go
7 quite long with costs borne by the industry for
8 something that's out of their control.

9 MS. McCawley: So let me make a
10 suggestion. Mike, is there a way, kind of like
11 what Dave did, you could maybe put these points in
12 a PowerPoint that we could look at later this
13 week?

14 It's a little bit unclear to me. It
15 seems like maybe you have two asks, one of them is
16 a letter with some points that you want to make
17 sure that there is consensus on the points that
18 would go in the letter. There seems like there's
19 a second thing that you're asking the CCC to look
20 at so it's a little unclear to me what the points
21 are.

22 I mean I am looking through the document

1 you have on the screen at the things that are
2 bolded but some of what we are talking about
3 doesn't appear to be some of the bolded language
4 so it's just a little unclear. Would you mind
5 putting that in a different format, maybe in a
6 PowerPoint presentation with two or three points
7 and bullets and what you are asking. Maybe that
8 would help folks?

9 MR. BURNER: Yes, sure.

10 MS. McCAWLEY: Yes, go ahead, Phil.

11 MR. ANDERSON: I just -- my mind is
12 spinning a little bit here as I've listened to
13 this discussion and I am looking at the graphic
14 and I am hearing Tom's concern and thinking about
15 the assignment we gave to Mike, wanting to make
16 sure that he brings something back that addresses
17 the concern.

18 And my -- and it could be that I just
19 don't understand what's being proposed here but I
20 think the -- we wanted to put a limitation on the
21 time period, overall time period so to address the
22 cost issues.

1 I hear Tom saying we want to make sure
2 that we provide adequate time for the review, to
3 ensure that our management objectives are met or
4 not exceeded.

5 And so the overall timeframe that's
6 represented on the graphic here isn't necessarily
7 the concern, it's to make sure that we have the
8 appropriate flexibility in terms of labeling, to
9 ensure that the monitoring period is long enough
10 to accomplish that management objective. Is that
11 correct?

12 MS. McCawley: Tom?

13 MR. Nies: Yeah, I think that's correct
14 and I think, Madam Chair, the way I interpreted
15 your guidance was Mike was to put the working
16 group's stuff into bullets and if I have an
17 alternative, it's up to me to bring the
18 alternative in two days from now, not up to Mike
19 to dream one up. That's how I interpreted your
20 guidance.

21 MS. McCawley: Yes, that was what I was
22 suggesting because I feel like we are kind of

1 winding down here today. There seems to be a
2 little bit of confusion about what exactly the ask
3 is, what the points are and then it seems like we
4 might need a little bit more discussion on it so
5 yes, what you just summarized was exactly what I
6 was suggesting.

7 MR. ANDERSON: So I just offered to Tom
8 that perhaps if you do have an idea, I would happy
9 to work with you on that idea if you want the
10 help. This is an important issue obviously, the
11 specific Council has a regulation in place. It's
12 going to go into effect in January 2021 and we are
13 trying to work through the issues associated with
14 the implementation and this is one of them so just
15 making that offer.

16 MS. McCAWLEY: Alright, thank you.
17 Thanks, Mike, Phil and Tom for your willingness to
18 work on this topic. So I feel like we are kind of
19 winding down today so we are going to come back to
20 this electronic monitoring workgroup
21 recommendations later in the week. I think we can
22 go ahead and adjourn for today and we'll see

1 everybody back here at 8:30 in the morning.

2 Thanks, everyone.

3 (Whereupon, at 5:22 p.m., the
4 PROCEEDINGS were continued.)

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I, Mark Mahoney, notary public in and for the District of Columbia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



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