DEPARTMENT OF COMMERCE

MARINE PROTECTED AREAS FEDERAL ADVISORY COMMITTEE

Tuesday, May 17, 2005
8:30 a.m. - 5:00 p.m.

Doubletree Hotel
Portland, Maine
PARTICIPANTS:

**Marine Protected Areas Federal Advisory Committee:**

Dr. Tundi Agardy
Sound Seas

Robert Bendick
The Nature Conservancy

David Benton
Commercial Fishing

Dr. Daniel Bromley
University of Wisconsin, Chair of FAC

Dr. Anthony Chatwin
The Nature Conservancy

Dr. Michael Cruickshank
Marine Minerals Technology Center Associates

Dr. Rod Fujita
Environmental Defense

Dr. Delores Garza
University of Alaska

Eric Gilman
National Audubon Society

Dr. John Halsey
Michigan Department of State

Dr. Mark Hixon
University of Oregon

George Lapointe
Maine Department of Marine Resources

Dr. Bonnie McCay
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Mel Moon
Quileute Natural Resources Department

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PARTICIPANTS (CONTINUED):

Michael Nussman
American Sportfishing Association

Terry O’Halloran
Recreation Industry (Hawaii)

Dr. John Ogden
Fl. Institute of Oceanography, Univ. of South Florida

Dr. Walter Pereyra
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Gil Radonski
Sport Fishing

Dr. James Ray
Oceanic Environmental Solutions, LLC

Barbara Stevenson
Commercial Fishing

Kay Williams
Gulf of Mexico Fishery Management Council

Robert Zales, II
Recreational Fishing

Federal Ex-Officio Representatives
Marine Protected Areas Federal Advisory Committee:

Tom Kitsos
Department of Commerce

Larry Maloney
Department of the Interior

Dr. Brian Melzian
Environmental Protection Agency

Jacqueline Schafer
U.S. Agency for International Development
Participants (continued):

Other Participants:

Bob Fletcher
Sportfishing Association of California

Bob Hayes
Coastal Conservation Association

Leslie Ann McGee
EFH/MPA Program

Heidi Recksieck
National MPA Center

Joseph Uravitch
National MPA Center

Dr. Charles Wahle
National MPA Center

Bobbi Walker
National Association of Charterboat Operators
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PROCEDINGS

MS. WENZEL: Good morning. I am Lauren Wenzel. I am the designated federal official for the Marine Protected Areas Federal Advisory Committee and I am pleased to open the meeting and to turn it over to our chair, Dan Bromley.

DR. BROMLEY: Thank you, Lauren. How nice to be in Maine. We are delighted to bring our show to George's backyard and Barbara's backyard and -- where is Barbara. Is she here? All right. It is Alison Reezer's backyard too. Wonderful.

Let me say -- I want to call attention to two people. We are so happy to have Kay Williams with us. Kay, it is wonderful to have you here. And Tom Kitsos. I must acknowledge Tom who is executive director of the Ocean Studies Commission and is sitting in for Mary Glackin today. Tom, welcome. There are others. I am sorry if I picked out a few, but these were important.

Everybody sign in. Are you having trouble hearing in the back? Is this better? Yes. Maybe we -- I can see spending three days asking people to
get closer to the microphone like George LaPointe. Maybe we can get a little more volume out of the machine so George can sit back and talk from a distance.

All right. The minutes from the February meeting, Lauren, are they in the process of being produced?

MS. WENZEL: They are being copied.

DR. BROMLEY: They are being copied. We may just approve them tomorrow morning as our first order of business. So that part of it we will skip.

Let me just say a few comments about the meeting today, explain something, and then I would like to go over the agenda before we turn it over to the 9:00 panel. This meeting is, as you all know, the one where we finally see if we can reach agreement on the written material in your packet and this, in a sense, is where it all comes together, it is going to come together, and it is our fervent hope that it will come together.

That is, in a sense, the substantive business that we have. We will talk a bit about the future, but
our purpose really here this three-day period is to approve, to the extent possible, the document that has been underway for at least a year.

We would like to explain one agenda item, which those of you that have good memories about our meeting in February might have been surprised to see, and that is a panel on sportfishing. At the end of the February meeting, you may recall that there were some expressions of concern that we had not given adequate hearing to sportfishing interests.

After we left Washington, I received some private correspondence from people on the Committee expressing grave concern that some of our members were upset at that oversight. So I made a decision to address that grievance and asked that a subcommittee put together a panel on sportfishing for inclusion in this meeting. So that is the reason for this inclusion in your agenda, which I am now prepared to talk about.

At 9:00, we are going to hear from the last two of our Fisheries Management Councils’ representatives to hear what the councils is doing with MPA-related activities and George LaPointe will preside
over that and introduce the speakers.

We will have a break, we will have the sportfishing panel at 10:15. Bob Zales will moderate that and there is a change on the participation of it, but that is -- that will be explained at the time. At 11:45 today is when we will begin our discussion about the approval of the report, the document in front of you, and at that time I will explain, in greater detail, how I propose to carry out that activity.

We will have lunch here in the hotel. Lauren, do we know where or do we want to wait on that? What is --

MS. WENZEL: It will be right across the hall --

DR. BROMLEY: Right across the hall.

MS. WENZEL: -- in the restaurant.

DR. BROMLEY: Where I think -- oh. Oh, in the restaurant.

MS. WENZEL: There is a door to the restaurant right across the hall.

DR. BROMLEY: I see. Okay. Good. We will have more time this afternoon for discussing of the
document, we will have a break. Our public comment period is at 3:45. We adjourn at 5:00 and then the Committee is having dinner this evening. Do we know where, Lauren, at 7:00?

MS. WENZEL: Yes. We have a reservation at the Sea Grill, which is downtown.

DR. BROMLEY: Okay.

MS. WENZEL: And actually, I did want to get a sort of level of interest. Can people just raise their hands if they are planning on going to dinner. I tell you what. I am going to send around a sheet of paper.

DR. BROMLEY: Yes.

MS. WENZEL: That will be good.

DR. BROMLEY: Okay. Yes, we will get directions to get you there this evening at 7:00. So in the morning, then, we will have about three hours, three-and-a-half hours or three hours and twenty-five minutes for a continuing discussion of the document. At 11:30, we have a tour of the Portland Fish Exchange, as you have seen, and before we go, Barbara Stevenson will explain a bit to us about it.

Lunch is on your own. There are lots of
places in the neighborhood to have lunch. We will convene back here at 1:30 tomorrow. We adjourn at 5:00. There is a reception tomorrow evening, 5:30 to 7:30, the information is in your packets. We will have more information for you on that tomorrow.

Thursday we will have another public comment period. We will finalize the document review if we haven't done so already. We will have a discussion of the next charge. In a general sense, Joe will help us think about that. We don't have any official role to play in that at this stage, but we will have a conversation about it. We will have a discussion about the future organization of our committee and should be able to adjourn at 5:00.

So I guess I want to ask Joe to make a few comments at this point, if you would, please, Joe.

MR. URAVITCH: Okay. Thank you, Dan.

I just wanted to take a time, since this is the last official convening of the Advisory Committee, and I will do it again at the end of the meeting, but just to thank everybody for all the hard work they have been doing to try and help us work and think through
these issues that are important to all of us.

   And I also wanted to give some special thanks to a number of the Committee members who have been helpful to us throughout the past couple of years at interagency meetings, state meetings, public meetings, presenting the work of the Committee, helping us identify people we should be talking to and generally helping us reach out to the communities that are interested in what we are doing. And I just thought it was appropriate to acknowledge all the help that the people have given us. And I just wanted, on behalf of the MPA Center, and NOAA and the Department of your Interior, to thank you for your help.

   Oh, the other thing I did want to acknowledge is that obviously we have had a limited amount of time, over the past two years, through the meetings we have had to really hear from every group, every organization, every institution that does have an interest in these issues and so for those that we have not yet reached out to or heard from sufficiently, hopefully we will be able to do that as we move into the next incarnation of this committee. This is really
helping us start the process, we are a long way from ending, and so we look forward to working for you and the folks we have not yet heard from as we proceed in this process.

DR. BROMLEY: Good. Thank you, Joe.
Okay. Well, we are ahead of schedule.
George, are you ready to do your 9:00 panel?

MR. LAPOINTE: Wow, you are really close to the mike. We appreciate this.

DR. BROMLEY: Wipe the slobber off will you, Joe, when you are finished.

(Laughter.)

MR. LAPOINTE: Thank you and I am glad to see everybody here. I wish it was a little warmer and dryer, but welcome to Maine in May.

DR. BROMLEY: It wouldn't be a Maine if it were warmer and dryer, George.

MR. LAPOINTE: It would be, actually.

DR. BROMLEY: Okay.

MR. LAPOINTE: It would be really nice too, but it is not. So that is the way it is.

I am going to start this -- before I introduce the
panel members, you know I have been kind of a
curmudgeon about panels this late in the process and
about a week ago, Mr. Chairman, I came to you can
either call it an epiphany or a rationalization about
the value of panels for us and for this MPA effort at
the national level and it is not to help us finish the
report on Thursday, because that is largely cast in
stone, but we are a springboard to the next level of
effort for implementation and that is the value of the
panels, I think, in providing a record for whoever
takes the next step to implement this policy as best we
can.

I have, in one of my many incarnations of my
professional career, been -- had the pleasure and the
burden of being a member of three of the Fishery
Management Councils, all three on the east coast, and I
know the passion and the commitment those council
members have to their job of managing fisheries and
trying to fit that in the context of ocean management.
And so I am pleased that we have a couple of our
councils represented here, the last two to give us
their perspectives.
Our first presenters is Bobbi Walker. She is a member and former chair of the Gulf Council. She hails from Alabama and she comes from the charterboat sector and so with no further ado, Bobbi, you are on.

MS. WALKER: Thank you. I want to thank you for allowing the Gulf of Mexico Fishery Management Council to be here today and give you some of our perspectives that we are doing in the Gulf of Mexico.

The Gulf of Mexico Fishery Management Council encompasses five states: Florida, Alabama, Mississippi, Louisiana and Texas. We have 1,631 miles of coast, that is 186,200 nautical miles in our EEZ, we manage 69 species and 6 fishery management plans and 330 species in the coral fishery management plans. Approximately 700 species are harvested in state and federal waters combined. The economic value of our fisheries are $800 million for our commercial dockside value and $8.1 billion for the recreational sector.

Our physical environment includes temperate to tropical ecosystems. Half of all wetlands in the United States are located here. We have 3,900 square miles of sea grasses, we have broad shelves 124 miles
wide. We also have the Mississippi River and coral reef.

We have put into place gear restrictions. These are recent management tools that we have done, MPA's that we have set up. We have the Tortugas Closure, the Longline Closure and the Texas Closure. I am going to go through some of this stuff.

The Cooperative Texas Shrimp Closure is a shrimp nursery ground off Texas, cooperatively closed under the shrimp fishery management plan in 1981 by the Council and the State of Texas. It lasts from 45 to 60 days and it has been out to either 15 or 200 miles and it results in shrimp growing to about 39 count a pound. It is 5,475 square nautical miles.

While the primary emphasis for the closure was to allow the juvenile shrimp to grow to a larger size before harvest, it also has secondary benefits by preventing some mortality on bycatch species from trawling that would have occurred. To enhance enforceability, we use aircraft and the closure usually extends 200 miles offshore. The benefits to the shrimping industry to the closure have been documented
annually since 1981.

The Tortugas shrimp sanctuary is a shrimp nursery ground in the Florida Keys and it has been permanently closed since 1981 to the use of trawls and harvests or possession of shrimp. Results in this closed area are 47 count pound shrimp before they are harvested. The geographical extent of the sanctuary was determined by years of sampling shrimp to determine their size by season by the University of Miami.

In most years when they migrate across the boundary, the shrimp have reached legal size, which is 47 count. The sanctuary has been closed to shrimp trawl for more than 30 years; therefore, most of the bottom is covered with life bottom organisms such as sponges and algae. Not only is it an important nursery for pink shrimp, but also for larvae of the spiny lobster as they settle out from their plankton.

The Longline Buoy Closure, this is a closure of the central and western gulf to longline and buoy gear inshore 50 fathoms and it was done to protect the larger red snapper spawning population. The observer study that was done in 1983 indicated for the western
gulf 95 percent of the red snapper landed and 56 percent of all the fish landed from longline vessels were red snapper greater than 14 pounds average weight. These larger red snapper were so sparsely distributed that harvests by bandit rigs was usually not productive.

Closure of the eastern gulf to 20 fathoms was largely to reduce the number of undersized grouper that were hooked since the predominance of undersized fish was much greater in waters shallower than 20 fathoms. The 20 fathom boundary of the closed area would prohibit longlining in the area most recreational fishermen used reducing the potential for conflict. So from Cape Sand Blast, which is the point there in Florida, east it is a 20 fathom boundary and it is a 50 fathom boundary west from Cape Sand Blast all the way to Brownsville, Texas.

The next thing we did was we closed two areas for a spawning site of gag grouper. And it was the Madison Swanson and the Steamboat Lumps. These were no take marine reserves and they were established by an August 1999 reef fish regulatory amendment and cited on
gag group spawning aggregations.

These marine reserves, which were established for four years while they were evaluated, should be considered as habitat areas of particular concern. The prohibition on fishing will protect the critical life history stage of spawning for gag grouper and scamp, both of which aggregates spawn in these areas. When the fish are aggregated, they are more easily exploited by fishermen. The gag stop was being subjected to over fishing. So that was one of the reasons that we closed this.

The next thing we did was identify habitat areas of particular concern and that totals 1,650 square nautical miles. The Florida middle ground is a pristine coral area protected by the Coral FMP since 1984 by preventing the use of any fishing gear interfacing with the bottom and it is 348 square miles. It consists at the topographical highs in the general area called the middle grounds.

Although the area has some hard coral, it is predominantly covered with soft coral. It supports a large assemblage of fishes associated with live bottom.
Before its designation as an HAPC, shrimp vessels periodically fished some areas of the reef complex. All but three of these were already under the protected rules of federal or state agencies. The Flower Garden Banks, Florida middle grounds and Oculina Banks were established as HAPC's under an FMP rule. Three other areas were considered, but not named as HAPC's.

And then right now the Council is working on Pulley Ridge. We received -- at one of our council meetings, they did some underwater photography and it was -- the corals that were there were tropical from the Caribbean and we couldn't believe at that depth of water that they were growing, but apparently, the water is so clear. So we are right now in the process of putting in protection for the Pulley Ridge area. And here are some other areas that are under consideration as habitat areas of particular concern.

The future directions being considered by the Council are ecosystem management. We have also implemented SEDAR to improve our assessments. We continue the use of traditional management tools, such as size limits, bag limits, strip limits and quotas.
We are reviewing the use of ISP programs in the commercial fishery. We are considering additional habitat areas of particular concerns in MPA's in the Gulf and we are developing additional strategies to reduce bycatch and bycatch mortality.

These are the HAPC's that were established regulating gear in January of '05 of this year. Pulley Ridge, which I told you about earlier, and it is the northernmost and deepest pristine area with coral characteristics of the Carribean sea. The Stetson Bank, McGrail Bank and east and west Flower Garden Banks, they are deep water pinnacles off of Texas and the Louisiana shelf and we are not allowing any shrimping there and also no anchoring.

Okay. Now these are proposed actions to minimize adverse affects on fishing on EFA on Pulley Ridge and the Tortugas Ecological Reserves. I wanted to tell you a little about them. I think I have got something, yes, right here.

The Tortugas north and south marine reserves are no take marine reserves cooperatively implemented in 2001 by the State of Florida NOA, the Council and
National Park Service. They encompass 185 square nautical miles. These marine reserves should be considered HAPC's, especially Tortugas south, which encompasses Riley's Hump. Riley's Hump is a pinnacle with relatively pristine coral formations and with the last known spawning aggregation site for mutton snapper in the Gulf.

All fishing was prohibited in 1994 on Riley's Hump during May and June, which were the peak spawning months for mutton snapper. Tortugas north marine reserve is sited on the northeast portion of Tortugas Bank, which was listed in the coral FMP in 1984 as a potential HAPC.

Both areas are important spawning sites for the grouper, especially black, red, gag, Nassau, yellowfin and the scamp and huns which are considered by all to be locally subject to over fishing. Snapper observed as using the areas for spawning included gray, mutton, cubera, yellowtail and dog.

And these are some more areas that the Council is looking at for HAPC designation.

And here is where we eliminated anchoring and
trawling in the McGrail and the east Flower Garden Bank and the west Flower Garden Bank off Texas. That is it.

MR. LAPOINTE: Thanks, Bobbi.

Any questions for Bobbi?

MR. LAPOINTE: We will start with Jim and then go to Rod.

DR. RAY: I just had one question. With regards to areas that are already Federal marine sanctuaries, aren’t there any protected by regulation; for example, Flower Garden Marine Sanctuary in Stetson Bank?

MS. WALKER: Well, they were, but the Council has worked in cooperation with them as a state.

DR. RAY: Okay.

MS. WALKER: So it has helped enhance it.

DR. FUJITA: Thanks, Bobbi, for that presentation. I think you mentioned that some of these longer term closures resulted in lots of coral and sponge on the bottom and that implies good nursery habitat.

MS. WALKER: Yes.

DR. FUJITA: Have you collected -- has the
Council collected some empirical evidence on that? We are having trouble finding data on that phenomena for the west coast.

MS. WALKER: I think they are doing -- they have been doing some underground filming in the Tortugas, but that information should be available to you.

MR. LAPOINTE: Mike?

DR. CRUICKSHANK: I wonder do you have a problem with interfacing with the Marine Minerals Management Service on the oil and gas areas?

MS. WALKER: No, we have not.

DR. CRUICKSHANK: How do you deal with that?

MS. WALKER: Well, right now we are dealing with, and I am not sure if any of you have heard about them, LNG open loop systems. Have any of you heard anything about them? The Gulf of Mexico right now, we have eight proposed LNG facilities that are open loop. They suck in more than a million gallons of water and of course they entrap fish eggs, larvae, all kinds of organisms.

The Council, along with other entities in the
Gulf, have been fighting these because they feel like the closed loop system is available and yes, it will -- it may cost a little bit more, but you don't endanger marine life. And right now one has been approved, which is off of Louisiana, and we heard yesterday the one that was 11 miles south of Alabama that was up for approval, they have put it on hold. So the Council keeps -- we keep digging all the time trying to fight these open loop systems.

DR. CRUICKSHANK: Thank you.

MR. LAPOINTE: Other questions?

MR. RADONSKI: I would just like to make it clear the Minerals Management Service is not permitting the LNG facilities. That is --

MS. WALKER: No, they are not.

MR. LAPOINTE: Sensitive subject everywhere.

Mr. Chairman.

DR. BROMLEY: Bobbi, could you go back to your first slide I believe. Economic value. I am interested in the bottom line literally there.

MS. WALKER: Okay.

DR. BROMLEY: Eight hundred million commercial
dockside. So this is -- that is the value of commercial landing.

MS. WALKER: Yes, it is.

DR. BROMLEY: And upon what is the 8.1 billion --

MS. WALKER: It was done through the consensus report that is done annually. I think it was done by ASA.

DR. BROMLEY: So that represents all of the expenditures of recreational fisherman --

MS. WALKER: Exactly.

DR. BROMLEY: -- and fisherpersons, fishers.

MS. WALKER: Hotels, motels, tackle, bait, vessels.

DR. BROMLEY: From the time they leave home.

MS. WALKER: Right.

DR. BROMLEY: Is this correct?

MS. WALKER: Yes.

DR. BROMLEY: Good. Thank you.

MR. LAPOINTE: John.

DR. HALSEY: Is that just fishing? Does that exclude recreational diving or any other --
MS. WALKER: I think that is just fishing, but I can't answer that.

DR. BROMLEY: Mr. Nussman.

MR. NUSSMAN: The ASA woke me up there.

DR. BROMLEY: If that is all it takes, we will stop using that acronym.

MR. NUSSMAN: Very good. I would appreciate that.

(Laughter.)

MR. NUSSMAN: Those numbers actually, and I am not exactly familiar with that number, at least this early in the morning, but the work was done by the National Marine Fishery Service, the economics folks, the economic program there. I think we publicized it in, you know, Bang The Gong, but it is -- even the Bureau of Census or the economic folks at the Department of Commerce did that.

DR. BROMLEY: Yes.

MS. WALKER: It was, Mike, but I don't know that I remember reading anything in the report about diving being included. I am sure it wasn't.

MR. NUSSMAN: No, diving was not included.
MS. WALKER: I didn't think so.

MR. NUSSMAN: That does include all expenditures from, you know, boats, gas, you name it, from recreational fishing.

MR. LAPOINTE: Barbara Stevenson.

MS. STEVENSON: Yes, well until somebody asked a question about this I was just going to let it go, but obviously these are not equivalent economic indicators, but the question that I had previously is in a number of points, you said this should be considered an HAPC. Does that mean that it has been designated by the Council as an HAPC?

MS. WALKER: Yes, several of them have. We have gone through an EFH amendment where we have designated areas as HAPC.

MS. STEVENSON: Okay. So all the ones that you said this should be treated like an HAPC are actually designated as HAPC's.

MS. WALKER: Yes.

MS. STEVENSON: Okay. Thank you.

MR. LAPOINTE: Thank you. Other questions?

I had a question, Bobbi. One of my big
questions about the designation of habitat areas, regardless of their title, is enforcement. Can you tell me what your experience is in the Gulf about enforcement of those areas?

MS. WALKER: We have had some major problems with enforcement. The Madison Swanson Closure that I showed you earlier that we have closed for the spawning of gag grouper, we have had various -- at various times several longline vessels caught in there. We have even had recreational vessels caught in there.

We have only got like eight or nine NOAA agency officers through the entire Gulf of Mexico. Enforcement is a major problem for us when you close an area for any purpose in the Gulf of Mexico. You can't exactly put a fence around it and we can't have boats just sitting out there. So enforcement has been a major problem with us.

MR. LAPOINTE: Thank you.

Mike Nussman and then Rod again.

MR. NUSSMAN: Following up on that same issue, with regard to Coast Guard, have they provided any assistance and looking at the way their mission, or at
least they are interpreting their mission having changed, are you seeing any, you know, dynamics there?

MS. WALKER: The Coast Guard, prior to going under Homeland Security, we probably had more enforcement from them, but I think their plate is full now since they went under Homeland Security, but they do still enforce our regulations when they can. The states have also cooperatively, they contract with NMFS to enforce our regulations also, but it is a tough job. That is a big gulf and it is hard to supply enforcement with the money.

DR. MCCAY: In that vein, has there been a development of any kind of voluntary assistance for enforcement?

MS. WALKER: Well, we have 800 numbers where we ask when people are out on the water if they see violations to please call in. That works some, but it is very limited.

DR. FUJITA: Also on this topic, I was wondering is there a potential for vessel monitoring systems to help here as it has in other cases of kind of remote closures?
MS. WALKER: Right. The Council is looking at VMS's right now on shrimp boats, commercial boats and charterboats. We are looking at requiring them on all those vessels, which will help.

MR. LAPOINTE: Other questions?

(No response.)

MR. LAPOINTE: Thanks very much, Bobbi.

MS. WALKER: Thank you.

DR. BROMLEY: Thank you, Bobbi.

(Applause.)

MR. LAPOINTE: Our next speaker is a staff member at the New England Council, Leslie Ann McGee. She is the EFH and MPA program manager and she is going to give the New England Council perspective on MPA's.

Welcome.

MS. MCGEE: Again, my name is Leslie Ann McGee. I work for the New England Fishery Management Council. I have been on staff with the Council for five years now. I have had the good fortune of working with Barbara Stevenson and George LaPointe on a number of issues over the years and I will defer a lot of the detailed questions probably to Barbara because she has
probably the most historical knowledge along these fisheries. But my presentation is a little bit more specific to what is going on in our region on a vessel by vessel basis. So I hope that will generate some questions.

I have been asked to give a presentation to you about MPA's in New England. As you all know, MPA's aren't just for fishing. In our opinion, a comprehensive MPA should address all activities with the potential to adversely affect the marine biodiversity, fish populations and habitat. However, given that said, there has only been narrow authority granted to the Council for the National Marine Fishery Service to regulate only commercial and recreational fishing.

Obviously other concerns include sand and gravel mining, ocean dumping, oil, gas and mineral exploration, extraction, channel dredging, dredge material disposal, pipeline cable installation, pollution when energy facilities, which is our new concern in the northeast region, with our -- some call it a wind farm. We kind of refer to it as a wind city,
a hundred thirty turbines that are over four hundred feet tall in Nantucket Sound that is proposed. The control and regulation of these activities is critical to the overall success of any proposed MPA.

The New England Council has many management areas which meet various IUCN criteria for an MPA. I will show you some of the pictures of these things. Specifically close the areas to protect essential fish habitat, groundfish and scallop fisher management planned closed areas, gear restricted areas, scallop rotational access areas and the list goes on and on and on.

To illustrate this via pictures, I thought that I might walk you through a little bit of the progression of our fishery management related place-based management or MPA’s in this region. This is roughly chronological. Some of the MPA’s that I will post were adopted pre Madison Act and their boundaries have changed slightly. And so some of the purposes have changed.

For instance, the first ones are closed area one and two on Georges Bank. They were initially
passed in 1969 by ICMNAF, which is the International Commission for the Management of North Atlantic Fisheries, and they originally spawn inhabit closures and their boundaries have changed slightly over time.

This is your hundred fathom. Then of course of the advent of the restricted management areas. We have the southern New England, Mid-Atlantic and Gulf of Maine lines that start to be drawn. We have the Nantucket light ship closed area right here. These are all still in existence.

The boundaries of closed area one and two changed slightly over time and their purposes changed. We have restricted gear areas in the regions, then we have the advent of our Jeffries Ledge in our Stellwagon Bank square mesh areas here. The Hudson Canyon closed areas, the Virginia Beach closed areas for scallop regulation. We have an inshore restricted roller gear area here, which restricts roller gear to 12 inches maximum.

We have small mesh areas, one to two added to the pile of things going on. A cultivator shoal small mesh area. It starts to get a little complicated.
Dogfish exemption area. Then we have the advent of what we call our rolling closures. These are closures that roll up the coast month by month every year. So they can be considered permanent roll enclosures in that they occur every year for a couple of months. They start here and they roll up the coast.

We have our western Gulf of Maine closed area that we established in 1998. It was originally closed to all gear capable of catching groundfish. It was a temporary closure that was supposed to last two or three years. In Amendment 13, last year it became a permanent or a year round closed area meaning there is no sunset provision.

Then we have our herring management areas. We have our monkfish management line, which divides our management of monkfish from the northern fishery management area to the southern fishery management area. We have a Cashes Ledge closure right here, which is a seasonal closure here capable of catching groundfish. In Amendment 13, now it is a permanent year round closed area.

Then we have the advent of our habitat closed
areas. These are closed areas specifically to minimize the adverse effects on fishing on essential fish habitat. They are the western Gulf of Maine, Jeffries, Cashes, parts of closed area one, an HAPC that we initiated back in 1998, and closed area two is now a year round habitat closed area, as is a big portion of the Nantucket light ship closed area north. These are areas that are closed to all bottom tending mobile gear indefinitely to protect habitat.

Then we have our scallop rotational management areas that we just implemented, the open and closed. They are sort of like the concept of letting a field lie fallow for a number of years and reopening it. So they are open and closed on three-year intervals approximately. It is a very complex document, right, Barbara?

MS. STEVENSON: Yes.

MS. MCGEE: We have our -- then with the advent of some of our stocks rebuilding, we want to access some of our stocks that we are not as concerned about like haddock. So then we started allowing these things called SAP's, which are special access programs,
back into some of our closed areas to target haddock and yellowtail founder. Now we have the US-Canada Resource Sharing Agreement area where we actually try to manage cod, haddock and yellowtails with the Canadians.

We have our two -- our newest closed areas are the Oceanographer and Lydonia Canyon closed areas. They were closed under the monkfish fishery management plan to minimize adverse effects on the EFH; specifically, they are to protect deep water corals. So you start to get the picture that the area-based fisheries management in New England is quite a complex picture. It certainly was done on a problem by problem basis and not really any strategic planning and it has evolved over time, meaning that some of these areas were originally enacted to do one thing and in reality, they actually have -- they serve different purposes now or that they were initially enacted to serve a purpose that they don't serve at all and that has not really been changed for one reason or another. An interesting case study is the Western Bank closed area, which was the result of a lot of
negotiations with a lot of stakeholders as to what the boundaries would be and some a little bit more east, some of them more west and this is what we ended up with. It was just to be a temporary closure and now it is an indefinite closure.

With the advent of all of these marine protected areas in our region, specifically gear managing fisheries, you can see some spatial distribution in fishing efforts and how they change based on some of these closures. I have done a very simplistic analysis, the Northeast Fishery Science Center did this analysis, and provided it to us.

So what we did is we looked at satellite tracking of fishing vessels. We had vessel monitoring systems in the region. Although we have them largely for large boats, boats that are over a hundred gross registered tons, we look at them when their vessel speed on the VMS is about three-and-a-half knots or less than three-and-a-half knots. We assume that that is actually when they are actively fishing or trawling. And then the observations are done at one hour intervals. They sort of ping the vessels at one hour
So what I did is I just took the older groundfish closed areas and wanted to show you a little bit about how the fleet sort of meanders around the closed areas and changes their fishing patterns based on these closed areas.

So looking at the concentrations around the boundaries and the ships in effort to a response in the seasonal closures, you will notice that in our New England office, which I will show you in a second, we actually enclose the restricted area and the rolling closures to them. So this was done starting in October of 2002 and it goes all the way through October of 2003.

So as you can see, the fleet sort of gears itself obviously where it can and can't fish. Most of these closed areas are closed to all gears capable of catching groundfish and now a good portion of them, as I read this analysis, are closed to all bottom tending mobile gear. Some of those gears are not capable of catching groundfish, but because it is a habitat closure, it is closed to them as well.
And so this was a seasonal closure and now it is a year round closure. There is also some more closures up here. So it is a very specific analysis and only actually contains a small portion of our fleet because, you know, we have a very mixed fleet, from small boast to large boats, and this largely takes into account the larger vessels who have been using VMS.

I did print all the data I stated together so you can see how there sort of the edge effects of fishing just to the west of closed area two and it is interesting that just to the west of our habitat area, a particular concern all the way around the edges of closed area one, and obviously it is really close to the western Gulf of Maine closed area.

I thought I would focus in specifically on the catch rates. As you can see, there is obviously spillover effects from this particular closed area. You can see the high concentration of habitats is right on the outskirts of the closed area there. The fleet is setting up waiting for the fish that spill out of the closed areas and in fact they do.

Beginning in 1994, the Council increased its
use and reliance on closed areas as a management tool to enhance rebuilding its habitat. In 1994, we implemented Amendment 5 to groundfish FMP. The Council's closed areas on Georges Bank and in the Gulf of Maine have contributed to stock rebuilding.

We can't just say that this one management tool has resulted in stock rebuilding. It is a combination of effort reductions of groundfish fishery has reduced efforts by over 50 percent in the last 10 years. There are gear restrictions now and other measures. And as a result, stocks are showing remarkable recovery. Some stocks are showing more recovery than others.

Of course, additional research is encouraged to quantify the effectiveness of closed areas as a management tool. This is some of the rebuilding of the scallop biomass that we have seen largely as a result of some of the closed areas. When we implemented them, the closed areas, we combined the -- which is the dark number -- the scallops has gone off the charts. The scallop fishery is doing very well.

The Gulf of Maine groundfish rebuilding is a
little bit of a different story. We have seen recovery of our groundfish complex in the Gulf of Maine is largely attributed to red fish. We have seen some cod rebuilding.

Georges Bank groundfish, these are our species here: winter flounder, yellowtail, haddock and cod. We have seen a lot of growth. It is largely as a result of our haddock and our yellowtail. We are still having a significant problem for cod.

MPA's in fisheries management. Closed and restricted areas are important elements, obviously, of most fishery management programs in the northeast. The continued use of closed areas and restricted areas demonstrate that the concept of an MPA is not new to fisheries managers and what may be new to some is the term “MPA” to describe these common management actions.

The Council is managing to control fishing activities, but obviously we have no control over many non-fishing related activities. We participate in the EFH assessment process with the National Fishery Service, the groundfishing impact projects. There is over 2,500 non-fishing impact EFH assessment projects
annually in our regions. We have the ability to
comment on, what, 10 or 15 of them.

We largely comment as a council on those
precedent setting ones, such as the Cape Wind Energy
Facility project like Winthrop Beach, which are
proposing to take beautiful cobble of the Gulf of Maine
that are cod low and Popland Beach and Winthrop and
into those beaches. Those types of projects we get
involved in. We just can't -- we are not, you know,
staffed or capable of getting involved in all 2,500 and
we live that largely to the Agency.

Obviously other agencies of management
authority are Army Corps of Engineers, Marine
Management Service, EPA and interestingly enough, now
the U.S. Coast Guard, with the Deep Water Court Act
with our G terminals. It will be interesting to see
how the U.S. Coast Guard is going to permit and deal
with those projects.

Luckily our projects are northeast and as
controversial as they are, are close to the system. So
we have sort of a leg up from some of the Gulf issues,
but still when you are trying to put a no fishing zone
eight miles off the Gloucester, you have got an issue with the fishing community.

An ideal MPA system would integrate and coordinate the management authority. We have recommended in the past some kind of regional advisory board with the Council, NOS, EPA, the Corps, Mineral Management, Fish and Wildlife so we can actually sit down at the table and talk to each other. Right now most of our interactions are staff by staff and, you know, it is hard to know who -- Fish and Wildlife Services is generally one issue and if we actually had a chance -- it was informalized, that we could actually sit down and talk to each other on a regular basis, I think that would help us out quite a bit.

It would allow us to form relationships. The Army Corp of Engineers, for instance, could understand why we are recommending some of our confirmation enhancement recommendations in our non-fishing impacts projects. They are not just a paper exercise, we actually would like to see improvements in the north shore areas for our fisheries.

Under the Magnuson Act, the regional fishery
management councils will continue to protect fish docks and habitats in the most appropriate way, including closed areas and restricted areas. The use of closed areas and restricted areas is at the whole discretion of the regional councils and it is consistent with an integrated approach for MPA's.

Unfortunately, we don't have a council policy strategy or official position on MPA's management. The Council completed two MPA education outreach workshops in May 2005, essentially last week, to solicit input from the public on the Council's MPA policy. This was funded through the MPA center, which we greatly appreciate, and was facilitated with the help of Maine, Rhode Island, New Hampshire and Connecticut Sea Grants. We brought in a bunch of people and we had a targeted input sessions on what should a council MPA policy look like and we are just right now sifting through that data.

In legitimacy afforded MPA's executive order indicates that the Council should increase its involvement and the role of council MPA policy should be to develop strategy on MPA's, better coordinate
fishery and non-fishery related MPA activities, establish a formal link between the Council and relevant MPA activities and Federal Advisory Panel, insure some coordination to keep the public and other agencies informed of council rules and responsibilities. That, in a nutshell, is my presentation.

MR. LAPOINTE: Thanks, Leslie.

Questions? I will start with John.

DR. OGDEN: Thanks. That was very interesting, especially your demonstration of sort of the history and the buildup of this and you mentioned that, of course, this is essentially -- these are cumulative accidents of history, it isn't strategic. Are you hinted at the likelihood that we would like to see it more strategic and if so, how would you do that?

MS. MCGEE: Well, we are embarking right now on some pilot projects. We are one of four councils funded to do an ecosystem pilot project where the eventual end will likely be a fisheries ecosystem plan. We have such a small geographic area to deal with and such a large number of fishing activity.
For instance, in the groundfish plan, prior to Amendment 13, just in the groundfish plan alone we had over 1,800 vessels targeted. So then you add up all the other fisheries that we have going on and it is going to be quite a challenge for the Council to take a step back and think, you know, what are we doing and how can we do this more strategically, but, you know, from my opening as a staff member, I can see some of it all building together where, you know, this past year we have had a problem with our herring fishery with catches of groundfish and it is all coming to a head.

So I think that people would like to strategically do this a little better, but from an allocated nature and how we are trying to do our stock rebuilding, it is hard to take that step back and say, let's start over.

MR. LAPOINTE: I have Barbara Stevenson and then Terry and Bob.

MS. STEVENSON: To the last question, what, 10, 11 years ago when we made what were groundfish closures, permanent closures, we all agreed that immediately we were going to work on making them the
right parameters because we knew they weren't. They still are exactly the same parameters. So all good intentions to get things in a direction, it is very difficult to change something once it has been implemented.

Leslie Ann, can you go to the May slide when you -- of fishing activity.

MS. MCGEE: May?

MS. STEVENSON: Is that possible? Yes.

MS. MCGEE: I will try.

MS. STEVENSON: Since it is May and May is our most -- has the most closures and the reason that I would like you all to look at that is you have noticed some significant hesitancy on the industry's part to have an MPA for MPA's purposes and it is not that -- obviously we are not opposed to area management, we are not opposed to closures, but --

MS. MCGEE: I am sorry. It does its own thing.

DR. BROMLEY: I was going to say, she can get to May, but can she stop it there, Barbara. That is --

MS. STEVENSON: That is sort of why I asked
can you rather than please go.

MS. MCGEE: Yes, I can. Barbara, the answer to your questions is always yes, I can.

DR. BROMLEY: You don't want to say no to Barbara.

(Laughter.)

MS. STEVENSON: Because it is important for you all to realize the significant level of closures that the fishing industry -- yes. There. If you notice all the fishing activity is in one little place in the Gulf of Maine because that is the only place that is open and has fish. There are other places that are open, but they don't have fish. And so when you look at how much is closed relative to how much is open, I think that is an important message for you all to realize is some places there really isn't much open.

Thank you, Leslie.

MR. LAPOINTE: Terry.

MR. O'HALLORAN: Thank you, Leslie Ann. I enjoyed your presentation very much. You have got quite a conglomeration of areas there that really strikes me. One of the comments you made about that
you recommended regional councils and illustrated some of the benefits that you might derive from regional councils, that is something that is embedded in our current draft and I am just curious, what has been the roadblocks or why do we not have regional councils from efforts from your recommendations?

MS. MCGEE: I am not sure I am the best one qualified to answer this, but I think largely the Council thinks that the Council system works and is very hesitant about relinquishing its regulatory authority and it is sort of hard to do our job in itself and then, you know, to add on literally how do we coordinate with others and how does that impact the job that we might do. I don't think those questions have really been embarked on yet. I think maybe George and Barbara might be able to better answer that than I would.

MR. LAPOINTE: I will jump in and then I have got a couple of other folks. Part of it is, is a concern about putting a new veneer of regulatory work on what is already a busy system and figuring out the return punitive effort on that. Is it going to be
effective or is it going to be cumbersome. You know, a real concern that we are going to -- you know, we have already got a system that makes me feel like the engineer on Star Trek on the Enterprise that the “Ship can't take anymore, Captain.”

(Laughter.)

MR. LAPOINTE: And not without a lot of forethought and a lot of questions like we have about design and implementation accepting, you know, a new bureaucracy without making sure that it is going to be effective and productive.

MS. MCGEE: The other reason, if you don't mind George, is that, you know, our council staff in itself is very limited, I think we have 11 staff members of which 5 are professional staff, and it is hard enough trying to get the work done to manage the fisheries let alone to think about how we might, you know, in-house a lot of the coordination work as well.

MR. LAPOINTE: Bob Zales.

MR. ZALES: Thank you, Leslie Ann. This was a neat presentation. I have got three questions I guess. First, the area that you showed that was the
rectangular box close to the beach where you said that
you had stakeholder input in creating that area and
initially it was done temporarily and then it was done
permanently. Whenever the changes were made to the
permanent establishment of that area, was the
stakeholder inputs still used to do that or is it once
you do it temporarily, the Council decided to make it
permanent?

MS. MCGEE: Well, I mean, the Council's
process itself is, probably arguably, the most public
process of any regulatory --

MR. ZALES: Yes, I would agree.

MS. MCGEE: -- process in the country. Every
single level of decision-making and recommendation
making of public input is taken so -- even down to our
science team level. So I would argue that there is
significant amount of stakeholder involvement in any
and all of our divisions.

MR. ZALES: Okay. And the next one where you
talked about the use of VMS, because in the Gulf they
are talking about VMS's now, and when you showed those
closed areas, you see some docks in those areas where
obviously somebody must be in there where they are not
supposed to be. Have those VMS -- the uses of VMS and
when people are getting in those boxes, has that helped
with enforcement to make cases for violations or what
has been the result of that?

MS. MCGEE: Well, I guess Barbara is probably
the best one to answer because her boats do have VMS on
them; is that correct, Barbara?

MS. STEVENSON: Yes. I am suffering from VMS
and one of my boats that was accidentally in a new
closed area got caught by VMS, which is appropriate.
Some of those areas you can steam through.

MS. MCGEE: That is right.

MS. STEVENSON: So you get a ping because they
happen to be steaming through there. There is also
something called errant pings, which have gotten less
over the years, but this was not this year's data,
which, you know, shows us sometimes fishing in Vermont
and that kind of thing. So you get some errant pings
in there that weren't actually fishing vessels. But
they have been extremely helpful and now I think
everybody has to have one or almost everybody.
MR. ZALES: Well, I guess I wasn't clear on my question. The question was that if somebody is actually caught in that area and the VMS is the one that has been -- has signaled the violation and it was actually there, it wasn't a false thing or whatever, did the VMS help in making the case with enforcement or is the VMS -- because we have been told that VMS's would greatly enhance the capability of enforcement to do that. So that is my question.

MS. STEVENSON: They use VMS only to make cases.

MR. ZALES: Okay. All right. And then the last one is on your LNG facilities, you said that you all have the same issues there in New England that we are having now in the Gulf, but fortunately for you all, you are playing with closed loops, which fishermen in the Gulf of Mexico have, ever since I have been fishing, which has been almost 40 years now, worked very well with the oil industries because we love those rigs out there.

But the issue besides open versus closed loop has also come into the security zones because of
Homeland Security. And in the Gulf they are talking, last I heard at this last council meeting, we are talking about, like, 11 miles in circumference. That is a pretty big closed area and that is just -- you don't go in there period. So how are you all dealing with that?

MS. MCGEE: Well, we had a similar situation where I believe there is a seven mile radius around the LNG terminals as opposed as to the no access zone. There is an additional mile or two buffer on that. We have yet to figure out what purpose that serves.

So, you know, what we do is, you know, we are -- on these particular issues that that are high profiles precedent setting issues, which these are for us. You know, we are in the fray of every single comment period and because we have the authority to comment on these projects, specifically through EFH regulations, we actually can require them to respond to our conservation recommendations.

So, you know, these are the projects that we kind of throw the gloves off and say that every single -- you know, every meeting that we can be at,
you know, we are commenting at. Every -- or even if it is a preliminary, preliminary, preliminary draft, we have got comments on it. So, you know, then obviously as you know, you know, you have to at some point employ, you know, your peripheral help in the area.

So it is certainly -- you know, close in proximity is a good thing in terms of obviously a baseline proposal, which was good, but we had two proposals and we are rapidly getting more. There is one five miles up in the Taughnton River, there is, you know, one seven miles off of Gloucester. So, I mean, they are rapidly becoming important.

And also there is -- even with the LNG thing, we also have other, you know, pipeline issues where there is pipeline proposed from the Sable Islands to come right smack through Georges Bank down through the grapevine channel and right along our edge, which has other issues for us as well.

So we are sort of being inundated by energy proposals at this point. And then the wind farms proposal kind of cut off Nantucket, but it is, you know, right in there. So we are sort of running around
scattered at this point with so many proposals to
comment to.

MR. ZALES: One other quick question just as a
follow-up I guess. The closed loop systems, were they
initially proposed by the companies proposing these
things or was it because of input from your council and
because of the amount of fishing in that area that
closed loop was kind of -- an open loop wasn't really
done?

MS. MCGEE: I have to give a lot of credit to
the National Marine Fishery Service and the habitat
folks in our region that said, you know, this is sort
of a baseline situation that we wanted to consider and
somehow they got them to say, fine, we will do a closed
loop to start with.

MR. ZALES: Okay. Thank you.

MR. LAPOINTE: I have Wally, Mike, Bonnie and
Rod and Dan.

DR. PEREYRA: Thank you, Leslie. In the north
pacific, we had a somewhat similar redistribution
effects that you shown there in New England. And one
of the consequences that we had in certain areas is as
the effort was redistributed out of areas that were
closed, there was an increase in bycatch because the
target species abundance in some cases dropped and so
the fishermen were fishing longer to get the same
quantity of fish because we have a fixed quota system
in the north pacific. Have you noticed any affects of
that sort from the redistribution of effort?

MS. MCGEE: Sure, especially in the scallop
fishery, for instance, where we have, you know, closed
the most productive scallop grounds for a number of
years. The total area swept to catch the same amount
of scallops went up significantly. So I mean, you
know, essentially what we do in some respect, and most
of the economists at the table won't like to hear this,
but we made it an efficiency and it is unfortunate, but
that is the way, from our control, we have dealt with
it over time. So to answer your question, definitely
yes.

MR. LAPOINTE: Mike?

DR. CRUICKSHANK: Thank you. Two questions.

On the wind farms, who regulates the wind farms and the
second question is, if you have a conflict with MMS
over the oil and gas development, who wins?

MS. MCGEE: Well, the wind farm, the wind city is being permitted by the U.S. Army Corps of Engineers.

DR. CRUICKSHANK: And that is because it is in the territory waters?

MS. MCGEE: Yes. Yes. It is in Nantucket Sound. It is right in here and it is a hundred and thirty towers, four hundred and twenty-five feet tall. They still think that we will be able to turn a boat in there somehow or get a helicopter in there to rescue somebody. We are really not sure how, but and the answer to your next question is generally when we make comments to other regulatory authorities, we don't receive responses back frankly. We write our letters; we don't get responses.

DR. CRUICKSHANK: Thank you.

MR. LAPOINTE: But they care deeply.

MS. MCGEE: I am sorry?


DR. MCCAY: Leslie Ann, one -- the executive order talks about MPA's that would be part of the national system that is having lasting protection and
we are grappling with the definition of that. Would you -- the kinds of closures that you have been talking about, either -- both temporary and permanent, would many of them qualify if you said that they had to be closed for about -- protected for about 10 years with the idea that much of that time would go to the procedural requirements of actually setting it up and then also time required to evaluate them?

MS. MCGEE: I guess your question is --

DR. MCCAY: I mean, in other words, do you think many of these would qualify as having lasting protection if 10 years was the minimum for lasting protection. I guess that is the simple question here. Have many of these lasted for 10 years and if so, do you think they would qualify to be part the national system of MPA's.

MS. MCGEE: Yes.

DR. MCCAY: Thank you.

MS. MCGEE: Because most of these areas have been closed either, since 1969 onwards to some of the newer ones like these ones were just closed last year, but they were closed indefinitely. So and some of them
are only closed certain months of the years, but they are closed those months every year. So they provide lasting protection to spawning and migrating fish in that area every year that they go through there.

DR. MCCAY: And is there -- just following up.

And is there a systematic attempt to evaluate the effects of closure?

MS. MCGEE: The Council is restricted in that we are not the data collection body. So we rely on National Fishery Service to do that kind of evaluation. And in some areas, from a stop perspective, they do some of that work. From a habitat perspective, not quite as much. So I always see this sort of, you know, ideal MPA, you know, you have a purpose and a goal and then, you know, you implement it and you evaluate it and, you know, it would be adaptable.

And the evaluation criteria is something that we have problems with because we don't -- you know, we implement it, but we don't really have direct control over whether or not it works or not. And frankly, that is a huge question for our fishery and our stakeholders is how do you know if this thing working and we have to
rely on the Service to give us those answers and, you know, they do a lot of work for us, but evaluating the effectiveness of closed areas is not top on their list.

We are still trying to get sort of level one, level two data from them and even we are trying to get level four data for EFH, which is, you know, can we attribute some of these closed areas to increased fishery productivity. We have a little of that information for cod, but for the other 39 species, you know, we are still at a lost.

But we are ahead of some of the other councils. You know, in talking to the western pacific council a couple of weeks ago at a meeting, they were still trying to get presence data and absence data for some of those species. So we took the longest trawl survey in history. It is, you know, well over 50 years old.

MR. LAPOINTE: Rod.

DR. FUJITA: Yes. I was really impressed by the data that you showed, I know it is preliminary and not comprehensive, but tracking the vessels and showing this impressive amount of aggregation around the closed
area boundaries. Does that -- or have you documented increased catch rates or bigger fish sizes predicted by theory and if so, do you think that that has compensated for the lack of or the reduced amount of fishing opportunity represented by closing these big areas in terms of total catch?

MS. MCGEE: From a groundfish perspective, I will let Barbara answer that question. From a scallop perspective, the answer is definitely yes. I mean, I think I recall a fisherman saying there is scallops here dying of old age and that is not natural.

(Laughter.)

MS. MCGEE: You have heard this, George, right? You know, this is -- it is an issue for them and they see it as yield. And so these closed areas, you know, have really done their job for sedentary purposes. I will let Barbara answer the --

MS. STEVENSON: The very quick answer, you have to realize that the first round of closed areas were to protect haddock, which we have done a phenomenal job, or something did, but we closed all -- year round all of the areas that haddock were known to
be in. So since they are still closed, it is a little
difficult to not catch them now that there is plenty of
them, which is why we have the special access, which is
just starting.

But you saw all those boats sitting around
waiting. They are actually -- or fishing. They are
only waiting for certain weather conditions when the
fish will accidentally come out of the area. So I am
not quite sure you would call it a spillover effect in
the sense that they are spreading their range, they are
just waiting for this one event where the -- and with
haddock, they are very concentrated. So if you get
them, you get them. So you might sit there five days
with nothing and then get them if the weather turns
right or wrong depending on whether you are human or
haddock.

(Laughter.)

MS. MCGEE: It is also hard to attribute a
closed area to larger fish or more fish because we have
so many other regulations on top of them. We have --
we manage fish in this region by this fishing out by
days at sea and the proposed allocated X amount of days
at sea and there have been significant days at sea reductions that was based on their history. So, you know, with those and the gear restrictions, time area closures, permanent closures. So it is really impossible to -- for us to say whether this particular closed area can be the cause of why.

DR. FUJITA: Yes, that is a fair point. I actually had another question about the gear restrictions. On the west coast, we have a rolling gear restriction too, it is to a smaller size, but I am wondering have you documented or studied the effects of the 12 inch roller gear restriction on preventing access to kind of rocky or pinnacle areas?

MS. MCGEE: Yes. In our last major amendment to groundfish, we proposed having a suite of alternatives for a restricted rocker and roller gear all the way down to cookies, from 36 inches all the way down, and we can attribute getting into certain areas with certain types of gear sizes. The 12 inch seems to be the point at which it is hard to get into a lot of highly complex areas. You still can get into a lot of areas, but you can't get into a lot of highly complex
areas.

You have to understand that, you know, Georges Bank is a fairly shallow environment. The Gulf of Maine is largely dominated by mud intermixed with a lot of complex areas. So it is sort of a game of where you want to get into and what you want to use to get in there. Our trawl survey uses about 18 inch roller gear when they do the test information. So and they don't get into very complex areas, which is one of the beefs about trawl survey is that they are not really going into the areas where the fish are necessarily.

MR. LAPOINTE: Dan Bromley.

DR. BROMLEY: Yes, thank you. I have a question for both speakers if I may. Bobbi, Barbara Stevenson called you on your economic value numbers. I would like to reenforce her point. It may seem inhospitable for me to ask you to come forth and criticize your slide, but you really don't have economic value there. When you talk about expenditures of recreational fisheries, this is not economic value. An X vessel landing value is not economic value.

So I think Barbara's point is a good one and
you may save yourself some abuse in the future if you think about how you talk about those two things. Total vessel value of commercial landings is a bottom underestimate of the total economic value of commercial fish in the United States, okay. And expenditures -- recreational fishermen are expenditures. And so that is my quibble with the way you talk about value and in a sense, that is Barbara's point, if I may. Okay. But go ahead and respond if you would.

MS. WALKER: Can I respond?

DR. BROMLEY: Yes.

MS. WALKER: Okay.

DR. BROMLEY: Be careful, but go ahead.

MS. WALKER: We don't have any data in the Gulf of X vessel value for commercial fisheries. There have been some of us on the Council that have requested them to take that dollar figure off of the vessel and extrapolate it through restaurants --

DR. BROMLEY: Whatever. Yes.

MS. WALKER: -- retail stores and things like that, but the recreational data, too, I think could possibly be underestimated because we haven't dealt with
diving -- divers and I think that is becoming very important in the Gulf of Mexico because it is acclimated for diving.

DR. BROMLEY: Yes.

MS. WALKER: But even when you look at the two figures, 800 million to 8.1 billion, and you take into consideration that we have not included divers in there, it shows there is a big difference between commercial and recreational fisheries and the economic value or impact they have to the nation. Even if you were to extrapolate the commercial fishery past the X vessel value, I don't see it reaching anywhere near 10 times what it is now.

DR. BROMLEY: That is fine and that is not my point. My point is we want to be clear about how we talk about things and the slide says economic value and you give us two numbers and neither number represents value. That is my point, okay? I don't care whether one is too small or too big, it is how we talk about things, the language you use to describe stuff. And I am just saying to you when you put a slide up called “Value,” you haven't captured what it is that you think
you are conveying, okay? We can talk about it later.

It is -- sorry. I do have a more friendly question for you.

MR. LAPOINTE: I hope so, Mr. Chairman.

(Laughter.)

DR. BROMLEY: And it goes also to Ms. McGee. I want to say Bobbi and Ms. McGee and me and Bobbi McGee almost, right? I am interested in -- you didn't say much about recreational fishing here and I would like to hear a little bit about how they are involved. And then I would like to hear from both of you how, on your councils, the recreational and the commercial folks are represented and interact. Okay. So could you --

MS. MCGEE: Yes. We have a significant recreational component to our fisheries, a little different then the situation that is -- where it is, you know, largely seasonal, but we do have a number of charter party vessel, vessel operators in the area that take night trips out the Georges Bank and other areas. They are allowed into almost all of our closed areas because they are not capable of catching groundfish and
this distinction.

    We have a number of private anglers, you know, one of our bigger commercial -- I mean, one of our bigger recreational fisheries in our region, the striped bass that is managed by NEFSC. So there is a big recreational contingent. It is just more seasonal in nature than some of the other councils might experience.

    DR. BROMLEY: And how is it represented on the council?

    MS. MCGEE: Our council chairman is the recreational fisherman. He -- well, I shouldn't say recreational fisherman. Is a commercial entity that owns --

    DR. BROMLEY: Charters?

    MS. MCGEE: -- charter party boats that point to different islands. We have several other council members that represent -- a few of them that represent commercial -- I mean, recreational interests on our council as well in different states.

    DR. BROMLEY: Good. Thanks.

    Bobbi?
MS. WALKER: Dr. Bromley, if my recollection is correct, the Gulf of Mexico has more recreational angler trips than any other area in the United States and as far as representation on our council, our council has five recreational representatives, five commercial representatives and one environmental representative.

DR. BROMLEY: Good. Thank you.

MR. LAPOINTE: Mr. Chairman, your question about value has spawned some interest. I would just -- I am going to make a personal comment. Quibbling -- not quibbling. Arguing and disagreeing about the numbers in the value masks, I think, the fact that both sectors are important. You know, I mean, I think that is the important take home point is not 8.4 billion versus 800 million, it is just that they are both important activities.

DR. BROMLEY: Yes. Of course. I am sorry if I was -- if you misunderstood. That was not the point.

MR. LAPOINTE: No, I know, and I was going to argue that -- I would just make the comment that when we are trying to drive towards consensus, you are
raising an issue for which there is as much passion about the value of different interests in the ocean as there is in MPA, but with that, Mike Nussman and then Gil.

MR. NUSSMAN: Mr. Chairman, all I was going to say is the term “value” is one that means many things to many people. I would think their slide was correct in the sense that it did, in fact, reveal that they were comparing apples and oranges and not -- were not comparable in sort of any sense. So I don’t think she tried to mislead this group and I personally probably would have written the slide very much the same way.

I would also add that the -- we, in both communities, are largely dependant upon the federal government or states to collect this information and that in fact, it wasn’t very long ago where the National Fishery Service had more economic information on catfish farming in the United States than they did have on recreational fishing and we have worked very hard to provide them with the money as well as the impetus to go out and collect those data. So while we wish we had perfect economic information, the truth is, we have
worked hard to get just the basics that we have right now. So with that, I will put my passion aside.

MR. LAPointE: Thank you.

Gil.

MR. RADONSKI: Dan, I agree with your analysis, the use of the economic terms, and just a brief history of how this came to be. Back in the early eighties, the Sportfishing Institute began collecting this data because we were in an allocation battle for the resource and allocation was based on the value and there is no market-based value for recreational fishing.

So we had to adopt a surrogate, if you will, value. And that is what we are doing in this case. And the one thing, that was measurable that we could collect data on was expenditures. So it was collected for getting involved in the allocation process and making our case for a fair allocation of the resource.

DR. BROMLEY: Yes. May I respond, George?

MR. LAPointE: You may.

DR. BROMLEY: Yes. I am happy to have all this feedback and I did not mean to be unduly
provocative here. I just think when we talk about the word “value,” I would like the word to speak to people and we are talking about expenditures, we are talking about X vessel revenue. That is all and I am sorry if I provoked anybody.

MR. LAPointe: Tundi.

DR. AGARDY: I don’t know if I dare bring this up, but I think we have a few minutes left before the break. Leslie, a great presentation and I was spurred into thinking a little bit, when I sensed your prospective on the wind energy proposal, into thinking about ecosystem-based management really means.

And I have a question as to whether you think there is any hope for the regional fisheries councils or any other kind of regional kind of management entity to start to work cooperatively or in concert with some of the other entities that actually control growth and land use planning and other things that affect -- in the long run affect marine ecosystems because the wind energy proposal is a response to growing energy needs on Cape Cod.

Cape Code is highly overdeveloped by anybody’s
perspective and that runaway growth on Cape Cod has led to all kinds of environmental problems that, you know, the wind energy is one response. It might not be the best response, but there has to be some response to the growing needs of that community.

And when we are talking about -- I know it is very difficult to define ecosystem based management and I know that expanding the limits of consideration to a point where it overburdens the capacity of staff and decision-makers to respond, it is not very fruitful. On the other hand, at some point this nation has to come to terms with the fact that marine management can't happen in isolation with terrestrial management and the two things have got to move forward together.

So I wonder if you think that the regional -- the New England Council is moving in that direction and whether they can exert any kind of influence over land use planning in the Gulf of Maine.

MS. MCGEE: I guess I have two responses. I will probably shock a few people, but one is, you know, while the Army Corps of Engineers retains the regulatory authority that they do, the answer to your
question is probably no.

That is a big hurdle for us understanding why the military units would be able to manage our nation's natural resources and the effects on those natural resources outside of military exercises supporting our military. We have problems in our region with the Army Corps of Engineers permitting a wind energy facility when they don't necessarily understand the environmental issues with that.

The other, I guess, answer to your question is until we get some more regulatory authority to directly have impacts on those types of projects, right now we and the National Marine Fishery Service only have recommendation authority. We can provide all the recommendations we want until we are blue in the face and they can write us a nice letter back and say, “Thanks for your recommendation” period. Until we get a little bit more, you know, beef into our regulatory power to impose conservation requirements, the answer to your question is probably no.

DR. AGARDY: I don't think I made myself clear because what I was asking is not whether -- what kind
of authority you had to look at proposals that directly affect the marine environment, but what kind of influence you might have in propelling coastal communities towards smart growth or thinking about limits to development in areas that clearly are approaching their carrying capacity to deal with --

MS. MCGEE: I guess my response is our ability is based on our authority and our authority does not enter into the planned based -- management planning issue. I mean, we do actually have the salmon FMP, which the Atlantic Salmon Fishery Management Plan enforces no fishery; however, we do -- we have designated essential fish habitat for Atlantic salmon in a number of rivers and a designated habitat area is of particular concern for salmon in a number of Maine rivers and that actually gives the authority to the National Marine Fishery Service enough to comment more heavily on some upstream proposals. But again, it is, you know, discretionary in nature.

And frankly, we have enough problems managing fisheries, getting that right, to expend a lot of the energy managing our inshore or, you know, terrestrial
land management. It would be very difficult for us without some kind of, you know, advisory body like we have recommended.

MR. LAPOINTE: I would jump in and say no, we can't do that right now because the discussion about the terrestrial interface with the ocean or environment is recognized kind of at the academic level and the scientific level, but societally, people haven't boughten into it yet and until that happens, we won't make that connection.

Steve and then Bob.

DR. MURRAY: Leslie, thanks very much for your presentation. It has always been a lot of activity going on in this region. I was just curious that if you were to wipe the slate clean and start over again, would you come up with the similar kinds of systems to achieve the same goals, particularly if you were thinking about trying to implement a more ecosystem-based management perspective?

MS. MCGEE: Well, hindsight is 20/20, isn't it?

DR. MURRAY: Mm-hmm.
MS. MCGEE: The answer is probably no. I don't think we have had a lot of these lines, but a lot of these lines were drawn based on the status of the stock and if we, you know, got to the point where stocks were -- are becoming a lot healthier and we could reevaluate, you know, how we do that -- obviously, as you know, with stocks, we try to access them again in a way that is sustainable.

And that sort of delicate balance between supporting, you know, our nation's fishery needs and our environmental needs is kind of a really thin line and if we could wipe the slate clean and look at it from an ecosystem perspective realizing that humans are part of the ecosystem and that stakeholders are part of the ecosystem, I think the lines would be a lot simpler, but I am not sure who would win and who would lose.

And I think that the Council, given the very nature of the way the Magnuson Act set them up and the representation that is on them, you know, the state directors, you know, recreational folks, commercial folks, we have environmental defense on our council, you know, processors, just plain old, you know, regular
Joe's, it would be interesting to think how this might turn out differently in my little crystal ball.

But I think people are getting a better understanding of how our fisheries are interrelated. I mean, certainly fishermen have been on the water for a number of years. The full understanding of how our fisheries are interrelated, how we chose to manage them on a political context is what is concerning and unclear to me.

MR. LAPOINTE: Bob Zales.

MR. ZALES: Yes. Mine is just kind of a comment about this process that we have gone through. I want to, as one of the people who have encouraged participation at our meetings by the various councils to make presentations as to what they do, I want to thank the chairman and the staff for allowing this to happen.

And I think that what we have been able to see is some things that some of us also have tried to make clear is that the councils, the various councils are doing, in my mind anyway, a tremendous amount of work and doing their part in trying to protect habitat and
resources, whether it is a seasonal closure or a permanent closure where there is total access denied or where it is partial access denied. I think we see that there is a lot of areas out there that have some sort of protection and I think that we are moving in the right direction.

And going along with what Tundi had said, and this has been where I have been coming from on the past several meetings about talking about the authority that we are playing with seems to be in federal jurisdiction, that without the local communities and the state being involved, it is kind of a useless process and part of that has to do with what has been mentioned here about development and that plays at the state level and the local level and obviously the councils don't have any authority over any of that because their primary function has to do with fishing and fishing activity.

And without some kind of regulatory atmosphere on the development, especially along our coast where, in my mind, habitat is probably more critical than anywhere else, a lot of -- in my mind, a lot of what we
are talking about doing is going to be a temporary
package, it is not really going to fix it, because -- I
have used the Madison-Swanson area as an example.

It is a great area for spawning aggregation of
gag grouper and does a wonderful job about protecting
that and allows those fish to get together and allows
eggs to grow up into little tiny fish, but if you don't
have grass beds protected on the coast in the Big Bend
area and the panhandle of Florida where those fish live
the first year or two of their lives, in my mind, it
doesn't do any good and you have got to have that
coordination.

So again, I want to thank the chairman and the
staff for allowing us to do these presentations. I
think they were very good. Thank you.

MR. LAPOINTE: I have Barbara Stevenson and
then to keep on schedule, we will bring it to a close.

MS. STEVENSON: Yes. I want to thank Leslie
Ann for the presentation. It was very good, but I also
want for you all to understand that this is a
simplified version. She excluded all the gill net
restricted areas, the gill net closed areas, which are
for Harbor porpoise, the seasonal closures for whales and the sams and dams, which are on the spot closures, essentially. I mean, they are not today, but they are like for the next month or so having to do with whales also. So this is the simple version.

MR. LAPOINTE: I want to close by thanking Leslie Ann and Bobbi for great presentations and for good follow-up as well. Thank you very much.

(Applause.)

DR. BROMLEY: Okay. We are right on schedule, 10:00. We have a break and we come back at 10:15 and we have a sportfishing panel. So we will see you in 15 minutes.

(A brief recess was taken.)

DR. BROMLEY: We need to get started. Bob, are you going to operate from back there?

MR. ZALES: No, I am going to come up there.

DR. BROMLEY: Okay. Oh, good, we get another crack at Bobbi Walker.

(Laughter.)

MS. WALKER: I am going to talk about value.

DR. BROMLEY: Yes, well. Yes, right. I was
going to say you see my agent. We will do a consulting contract, but you talk to my agent.

MR. ZALES: Okay. Are we ready?

DR. BROMLEY: Yes. Go ahead, Bob.

MR. ZALES: All right. Thank you, Dan, and again, I want to thank you for convening this panel and allowing the recreational sectors to give their views on what they have done and what they expect out of the MPA's.

I am sorry to say one of the panelists, Bob Fletcher from San Diego, is not going to be able to make it. He, as I understand, got an illness in his family. So he wasn't able to come. They did print out and given everybody a copy of his presentation that he was going to do.

And if I could, I would just like to mention on here that Bob is president of the Southern -- or the Sportfishing Association of California, which was created in 1972, and then I believe Bob, at one point, I don't know what his position was, but he was with California Fish and Games.

PARTICIPANT: Director.
MR. ZALES: The director? And so he is very knowledgeable on what he does here and the organization which represents the commercial passenger vessel fleet, which is the charter fleet out there in Southern California. He has been president since 1989 and that fleet carries 750,000 passengers a year on their boats. So it is a large fleet. And everybody here knows, I believe, at least some of the history of the MPA's in Southern California and the problems associated with creating some of those areas and the controversies that go along with that.

And the key thing, I think, in here is that SAC believes that the only intelligent approach to manage the fisheries is through the use of sound science, coupled with accurate, timely and credible catch information. As long as you have that and good stakeholder input, that you should be able to create MPA's where you can use them as a tool, in association with other management efforts, to make our habitat and our fisheries much better. And I would encourage all you all to read that.

First up is going to be Bob Hayes. For those
of you who don't know Bob, Bob is a former NOAA attorney
and I think for five councils and I know for the Gulf
council at one time he was the attorney. He is also
the recreational representative to ICAT for the United
States and he has experience with HMS fisheries and
things like that and he is here today representing the
Coastal Conservation Association, CCA.

He is their attorney in Washington and I think
he has been that attorney now for 20 years or so. So
he is very knowledgeable about the association and what
they represent. So Bob, I will turn it over to you.

MR. HAYES: Thanks, Bob. What I would like to
talk about today a little bit today is what is
recreational fishing, what is the size of it, how big
is it, what does it do. Then I want to talk a little
bit about how it is organized and in that context, I
want to tell you a little bit about the Coastal
Conservation Association.

And then I want to go and talk a little bit
about what MPA's are, why we have taken on, essentially,
an adversarial role with no fishing zones and the
importance of access to recreational fishing and to
recreational fishermen. That is essentially what I am going to talk about.

I think most people know that recreational fishing in the United States, and I am only talking about marine recreational fishing here, is a very fast growing and probably the fastest growing sector of recreational fishing in the country. About 13 million participants in it. That number, depending on who you talk to, goes to 15 million or down to 12. So I just picked 13 million off NMFS' website. And that is a good enough number. It is big.

The U.S. Oceans Commission indicates -- their indication of value, which I copied directly from the Commission reports so you can argue with the President on that if you would like or Adm. Watkins, they say it is worth about $20 million -- 20 billion. Excuse me.

But I think from the rest of the indicators are pretty interesting. One, there is about 6 million boats in the United States capable of fishing. Now some of those, obviously, are in the Great Lakes and in other places. So let's just guess. Let's say half of them do marine recreational fishing. That is 3 million
boats in the United States capable of doing marine
recreational fishing.

Sixty-one thousand of them are over 41 -- are
over 40 feet long. That is a lot of big boats. You
have to assume that at least two-thirds of those are
the kind of boats that are involved in offshore fishing
and what you can see by the way of which -- sort of the
generation of the size of recreational fishing is that
recreational fishing, if you will look at it over about
a 30 year period here -- go back to 1960 -- no, 1975,
let's say -- predominant fishing in the United States by
recreational fishermen was basically done onshore.
Nobody invented a huge bone fisher in 1975.

The 17-foot Mako was just made. And the
17-foot Mako is one of the first boats that was used
for flat water, inshore fishing. Most of it was
wading. Most of it was from the shore. It was a
completely different activity.

Thirty years later, you have developed an
enormous industry to access those waters and you have
shifted -- and you can go to the next slide if you
want. You have shifted the fishery from predominantly
a short-side fishery to what is now at least 50/50 out of a boat. Now this is some data from a study that was done by the State of Florida. And the State of Florida was trying to determine what are the relative values, if you will, of the various industries in the State of Florida. What are they.

And so they began taking a look at tourism. That was obviously number one. They looked at citrus, they looked at beef production. As you know, beef production is a big thing in the State of Florida. They began looking at their various industries and what they found was that one of the top 10 industries in the State of Florida was recreational fishing.

And these numbers are basically all from that study. And what that study shows is a couple of things. One, it is pretty good sized. It shows this business about transferring from shore-side to boats. It shows that a whole lot of boats are registered in the State of Florida and the interesting thing, at least from my perspective, is that what it shows is there is an enormous amount of growth going on in recreational fishing in the State of Florida. You will
see some certain dates there a lot -- 1996 -- and that
is because that was the beginning of the data that they
were using.

Essentially this growth is due to, as we see
it, two things. Obviously you have got a population
growth. And the first slide, frankly, said that, you
know, the President's Commission -- or the President's
response to the Ocean's Commission indicates that in the
next 20 years, 75 percent of the population of the
United States is going to live within 50 miles of the
coast. I don't know if that prediction is right or not,
but since 50 percent now live within 50 miles of the
coast, that is a very large increase in population of
the coast.

What that would suggest to you is that
population growth, people go to the coast. There is
something they want to do. And one of the things they
want to do is go fishing. Not all of them are going to
go fishing, but some large portion of them are going to
go fishing. And so I enjoyed the previous comment
about how do you plan, what is the Council's role in
planning for the future taking into account what is
going to happen. How do they look at this growth. It is not only a population growth and impact on the coastal communities, it is a resource problem.

The second reason, as we see it in the State of Florida that you had a healthy resource, is because they have done some things -- excuse me, that you have this growth is because you have got a healthy resource. The State of Florida has done some remarkable things in the last 10 years to improve the management of fisheries, particularly the near shore fisheries. I think everybody is familiar with the Florida net ban that is about 10 years old. That has produced terrific small fish catches along the coast.

They have banned traps in the State of -- there is fish traps in the State of Florida. They banned those I think when I was on the Council. So that would be 25 years ago. And they have gone ahead and put together a series of game fish laws. People are familiar with these. The idea is to take a predominantly recreational fish, which is really a major contributor to recreational fishing, and take that fish out of the marketplace.
The State of Florida chose to do that. They have done that for snook, redfish and tarpon. I am sure there is a bunch of others that Bob Zales could give us because he knows what they are exactly. But those are the ones that come to mind when you think of Florida.

The last thing we put on there was licensing. The State of Florida has finally begun to license recreational fishermen and one of the things that I will talk about later, as we talk about the Coastal Conservation Association and its program, is we believe very, very strongly in licensing marine recreational fishing.

This theme here is essentially that fisheries management works. I think what we heard from the councils and I suspect if you have heard from all eight councils -- what you have heard from all eight councils is there is a significant belief amongst people who are on councils and work with councils that the fishery management system works and it can work within the context of traditional management.

We have seen -- and this is particularly a
compliment to guys like George and the state directors. We have seen a significant improvement in state waters of large stocks, the ones that we care the most about. And the ones that I have put up here, Striped Bass. Everybody is familiar with that story. You know, we go ahead, we get the state directors to agree to shut down the fishery. They shut down the fishery for about three or four years, striped bass begin to recover. They have been very well managed by the Atlantic States Marines Fisheries Commission at the moment. Striped bass does have a commercial component, but it is reasonably small. It is predominantly a recreational fishery.

The other one I want to talk about just quickly on recovery is red drum. There is a big debate going on in the Gulf of Mexico whether it is fully recovered or half recovered or going to be recovered, but I can tell you that red drum is a recreational success story. It is very well managed in the states. It is also a mixed fishery.

You can only catch striped bass in a state. You cannot catch striped bass in the EEZ -- excuse me,
you can't catch striped bass in the EEZ, but you can't
catch red drum in the EEZ either. That has been closed
since, I don't know, '89 something, 1989, something in
that ballpark. It is a very significant recovery and
these recoveries were done predominantly by the impetus
of recreational fishing, state directors and fishery
management councils.

I am going to talk a little bit about CCA.
This is sort of my mantra. I often am at national
meetings and -- well, we have a board of 220 people.
So you can imagine what they are like. And someone
will get up and talk about how we need more fish or the
size limits ought to be bigger or smaller or the bag
limits aren't big enough and all those kind of things
and I point them to the middle word a lot and I say
read that work that actually means something. We
actually care about that.

And for those people who probably -- has
anybody in here read Field and Stream this month? No?
Probably not a big Field and Stream group. The
President reads it on the airplane. You might want to
try to read it. But Field and Stream this month had
its anniversary issue and it named the 50 most
significant people in recreational fishing and the
Coastal Conservation Association and our founder,
Walter Fondron, was named as the number one
conservationist in the history of fishing. So we take
the word “conservation” pretty seriously.

I am going to tell you a little bit about CCA
because it gives you a sense of how basically
recreational fishing organizations are organized. CCA
is in 15 states. We have a group here. I suspect,
without looking too hard, I could find five members of
that -- of the organization in this room. I certainly
know three. And we have members, basically about
90,000 members, we operate in these 15 separate states.

We have a national staff, which is in Houston, Texas.

My role, as general counsel, is to essentially
do strategic planning and a little bit of lobbying here
and there and they actually let me go to court once in
a while, but I also have available to me three national
lobbyists and we have fourteen state lobbyists. So our
role in this system is to push the system. We have
been very aggressive over the years about pushing the
system and I will talk about our conservation program in a second.

The principles that we were founded on and the principles that we actually first laid out in some testimony dealing with red fish in 1986, I think, were that the fish comes first. If you are worried about allocation, we may get to allocation and we certainly have allocation fights, but if it is at the expense of the fish, we have got no interest in doing it.

The second one is that our decisions, we try to base them on sound silence. Now I think “sound” is the word I used in referring to the Fish Act and everybody got upset by that term. Maybe it was strong or meaningful or, you know, something, but don’t take it in a technical sense, take it as a -- what we are trying to say is we are trying to base our decisions on some science and some science that makes some sense to us.

And then lastly, we believe that you ought to regulate recreational fishermen. Now that is an unusual position, I know, in some organization. It is not in ours. When we recovered red fish in -- red drum
in the Gulf of Mexico, the very first thing we did in the State of Florida was we put a moratorium on red drum. I think it was three, maybe four years before you could catch one. We have done it with speckled trout. We have done it with all sorts of species up and down the coast. We are not in the last bit afraid of regulating recreational fishermen.

This is -- here is one I didn't read. This is part of our conservation program. And what I want to talk about is essentially what the three things that -- you know, these are things that we have done in our basic conservation program. We have tried to do these at the state level. We have been somewhat successful.

We have tried to do these at the regional level, the regional fishery management councils, and we have tried to do this at the international level, ICAT and other international organizations.

The first one is we think that you ought to focus -- one of the focuses we have had, at least, is on gear, destructive gear. Somebody once asked me, in a forum much like this, if CCA was an anti-commercial organization. And what I said was was clearly we are
not. What we are is we are an anti-waste organization, be that our waste or a commercial fishermen's waste. And the gear that we have gone ahead and banned in various states is gear that we thought was wasteful and was harmful to the conservation of the resource. And so we -- people are familiar with net bans. I think we have them in seven states. We banned fish traps in the State of Florida, as I mentioned before. Actually, I think they are banned in every place in the Gulf of Mexico except for the Gulf of Mexico and I think that actually goes into place this year or next year. So --


MR. HAYES: 2007. Okay. I knew it was coming.

The other one is game fish. As I said before, you know, we are big believers in game fish, particularly species that are predominantly recreational fish. We think game fish makes a lot of sense. So we favor that for striped bass, we favor that for red drum, we don't favor a game fish for haddock, pollock. You know, it is not a universal
statement. It is designed to focus on those species
that are predominantly recreational fisheries and
predominantly accessible to recreational fishermen.

And the last one is right sizing the
commercial fishery. We think this, in the next few
years, from our conservation program, is going to be
one of the most important things that we are doing.
And I will give you one example of it because it is
something we are actually doing. We have been doing it
for about five years.

The State of Texas, as I think people know
here, doesn't have a territorial sea the size of
everybody else's. It is bigger because it is Texas. It
turns out it is three marine leagues. So it is about
nine or ten miles depending on how you define a league.
You guys can all decide what a league is. It has got
about six definitions.

But it allows for two things. It allows for a
territorial sea shrimp fishery and it allows for an
inland fishery. And just so we get our topics right,
an inland fishery to us is one that is inside or
shoreward of the baseline. So it is a bay fishery.
And we found out, oh, I don't know, maybe about six years ago, we felt that the shrimp industry or shrimp fishery in the State of Texas was oversized, if you will, and this is -- we are talking about territorial sea and inland fisheries.

So what we did is we went to the governor -- and you probably remember who the governor was, it was George Bush. And we went to him and we said look, what we want you to do is we want you to tax us. We want a $3 surcharge on every recreational -- marine recreational permit in the State of Texas and we will collect that money and we will go ahead and we will use that money for the purposes of buying out and right sizing the shrimp fishery in the State of Texas.

We are about halfway there. It takes a long time. You know, we can only -- I think there is 980 licenses. So we don't get a lot of money out of it. We get about 3 million a year. It is a, you know, a voluntary process. You have to be willing to buy, you know, willing buyer/willing seller arrangement. But we have reduced that fishery by, I would say, half at this point. Maybe from 38 down to about 19, 1,800 vessels.
The target there is to not eliminate the fishery, but make that fishery a viable fishery in the State of Texas and protect habitat and all of those things that go along with it. Shrimp fisheries are particularly destructive. So we are trying to work with the shrimp industry to kind of -- to get it to work out. But that, as we see it from a standpoint of moving forward, is the -- is one of the bigger things that we are going to need to be doing.

Now the last one, permitting is supposed to look like the rest of them and that is why I left it to the last. As I said before, we believe that every recreational fisherman ought to be permitted. We understand that recreational fishermen, particularly in the northeast, view it as a tax, they view it as a burden, they view it as something that is an impediment to going out and accessing the resource, but from CCA's perspective, every state that we have, except for the State of Maine, George, we don't work on this one. We almost got booted out of the legislature I understand one year trying to do this.

But we believe very strongly that you ought to
number them and the reason you ought to go ahead and
identify them is because you can then begin to narrow
the universe of the people you are getting the
statistics from.

Mike talked a little bit before about how we
are just starting to get economic information. We are
just starting to kind of get together the kinds of
numbers that are persuasive, if you will, in a
regulatory standpoint and are persuasive to public
policy makers like yourselves.

Those are new things to recreational fishing
and what we see in the permitting process is that the
permitting process will give us a universe in which we
can begin to concentrate some of that information and
improve it significantly and subsequently, improve the
way in which recreational fishermen are managed.

I want to talk a little bit about sort of the
difference between us. I like this concept because I
think oftentimes people think that recreational and
commercial fishermen are just adverse to each other and
they are really not adverse to each other. The overlap
is surprisingly small, but overlap does exist. There
are differences, there is no question. And what I have tried to do is capture at least how I look at it.

If you look, first of all, as to, you know, how they are managed, they are managed differently. Commercial fishermen, a smaller group, easier to identify. They have got VMS, they have got licenses, they have got lots of things and they have got very good reporting. So you can put quotas on them and you can enforce those quotas because you have real time information to do it.

They have trip limits, they have seasons, they have size limits. I didn't put your favorites on, which are time and area closures, but they have time and area closures. Time and area closures work very well in commercial fisheries. There is no question about it.

I did note one thing and maybe Barbara could -- maybe a little later could help me with this. I don't think of all of that stacking of marine protected areas that went on in here a little while ago in both the Gulf and in New England, I believe that no recreational fishing is excluded from any of those. Now I am not sure about New England; I am positive
about the gulf.

Although Bobbi referred to it as a no fishing zone, it turns out that bill fishing has been allotted in that zone since day one. It has never been closed for bill fishing. So it is not a no fishing zone. But, you know, there is a significant difference and I will get to why that difference exists in a minute.

Recreational fishermen, traditionally bag size limit seasons. Somebody wrote a report, recently, about how recreational fishermen were out of control and might be taking 4 percent of the fishery and, you know, they have got these bag limits and size limits and seasons and, my goodness, you know, this doesn't work.

I would suggest that anybody that is sort of taking that tact ought to take a quick look at every state recreational fishery in this country and in the world. And what they will find out very, very quickly is they are all managed the same way. They are all managed with bag limits, size limits and seasons. And there are some very definite reasons why that is the case and I am going to get to those in the next slide.
I think.
The difference between these two is, and I capture this -- you know, I think I captured this. I hope I don't offend anybody. That commercial fishermen -- the value of commercial fishering is to put fish on the dock. That is the point. That is what you are trying to achieve there. If you go out, as Barbara has talked about, and you sit out there next to it four or five days waiting for the weather to shift, that is not a good thing. That is not something that is good for commercial fishing. So actually achieving success there is putting the fish on the dock. That is an extremely important part of that activity.

Recreational fishing, we can be pretty inefficient and we like being inefficient. If you look at particularly, you know, inshore fisheries -- and there is lots of these. I am not talking about essentially trout and bass and that kind of fishery, but to inshore marine recreational fishery, there are a number of them in this country where people fish, you know, with barbarous hooks, they fish -- it is all catch and release. They have got all sorts of ways to
make it more difficult.

We run a couple of tournaments that essentially you have to take the worst lure in your box and use that to see what you can catch with it. You know, that kind of thing. Recreational fishing doesn't require you to catch one. It is helpful if you catch one and there isn't anybody in here who doesn't like to catch one, but it isn't what produces the value. It is participating in the activity. And that is the difference between us and the commercial fisheries.

There is no value in participating in commercial fishing per se. You have got to actually deliver something. It does make it -- it makes them very different and frankly, recreational fishermen -- I say this a lot and I am the perfect epitome of it, I really am. We are pretty inefficient.

We use inefficient gear by and large. We now have all sorts of wonderful electronics and guys like Bob and Bobbi, they actually know how to use those electronics, but, you know, your average recreational fisherman, I can assure you, is an extraordinarily inefficient guy. And so what that person needs to have
is a very healthy resource in order to participate in that activity. He has got to make it easier.

It is one of the reasons in fisheries like striped bass and in red drum when they became to recover -- or summer flounder is the present one, when they begin to recover, you start seeing increased participation by recreational fishermen. It is not that they didn't like it before, it is that it got easier. It is not the high end guy, it is the low end guy that brings the economic value to recreational fishing.

Oh, that is it. I have -- by God, I have put out -- I have got ahead of my slides. I just -- I want to just mention the second one because I think the second one is important to us as well. I have talked about sustainable fishing. I want to talk about access. That is the second half of this thing.

If recreational fishing doesn't have access to the resource -- and you can go to the next slide if you want -- we have a significant problem. It is the reason that we filed the suit on the Maxwell Banks. Anybody that has ever seen this thing, you know,
frankly the coast -- and Bobbi put it up there, it is pretty far offshore. I would guess, I don't know, maybe a hundred recreational fishermen have access to it. It is probably more of a charterboat fishery than anything else. But we sued on it essentially based on the principle. And the principle in that case was twofold.

One, we don't like the process. We didn't think we were allowed to participate in the process. It was a council process, but frankly, it was a decision made at the last moment and we didn't like it. But the second part of that was we didn't like the principle of using the Magnuson Act to deny us access when we weren't in any way the source of the problem that you were trying to solve.

What they were trying to solve was the overfishing of gag grouper in about 400 feet of water. What they banned was surface trawling in the first 20 feet. We didn't think that made a lot of sense to us. And that is why we ultimately went ahead and sued on that case.

That case, by the way, got settled and Bobbi
could talk about it, but we are off into about round
five in that case, but that case may go on forever. It
is a lawyer's nightmare. Actually, it is a client's
nightmare. It is probably a lawyer's dream.

Physical access. You know, we spent a lot of
money in this country, Wallop-Breaux and other places,
you know, trying to make sure we have got boat ramps,
fishing peers. You know, we have promoted
charterboats. We work very closely with the
charterboat industry. I like to say they carry our
members. They are an important element of getting
access to the resource.

As Bob knows, we objected to the limited entry
system on charterboats in the Gulf of Mexico. We did
it on exactly the same principle. It was limiting our
access to the resource and we didn't like that. And so
although it did get a thrill I will give you that.

Open beaches. You will see a lot of activity
amongst groups, not CCA so much, but there is a lot of
activity amongst groups right now, particularly dealing
with the park service and others, about access to
beaches. You know, on a beach, you go fishing. If you
can't get on the beach, you can't go fishing.

Now obviously when I talk about access, I have an overlay that says remember we are the Coastal Conservation Association. We are not just out there raping and pillaging the resource. Two, we do not want that access to infringe on the basic health of either the environment or on the resource of which we are trying to catch because as I said, we need a lot of them. So the more we have got the merrier.

The second part of this is something that I think is a little more germaine to your committee and that is what we call regulatory access. People view licensing as a limitation on access. We don't, but some people do.

You know, we view allocations as a limitation on access. If you have got a real small allocation, that turns out in lots of fisheries to be a big problem. You have got closed areas. They are obviously a limitation on access and you have got marine reserves, be they science reserves or habitat reserves or whatever those reserves are. They are limitations on access.
Now I wrote -- I suppose people don't know this, Bob didn't say this, but about three years ago, four years ago, five years ago, I wrote this bill called the Freedom to Fish Act and Senator Hutchinson and Senator Breaux, at the time, were kind enough introduce it and it has been reintroduced a couple of times and but it is based on certain principles and I think those principles are something that we think is important.

If you are going to deny the public access to a public resource and the public -- and I do mean this also the commercial public, all the public, you have to go through a process and that process has to have two things -- and it is one of the reasons we are so comfortable at the councils -- a highly public process. I can't remember who it was, but they said that, you know, council processes are highly public. It is participatory democracy, it is a public process the recreational fishermen are very comfortable working in it. That is one.

The second thing you have to have by way of processes, you have got to know who is in charge. If
you are talking about managing fisheries, then what you have to look at is a management system that has somebody in charge. One person. Now what we have seen in the MPA process, and one of the things that kind of discourages us, is I suppose you could argue that the President is in charge, but it is a little bit disturbing to find out the guy closed half of the area off the northwest corner of the State of Hawaii to recreational fishing in an executive order, which nobody participated in. We find that a little disturbing.

When the Bush Administration came in, we asked the Bush Administration to do a public process on that. And now I don't have any members out there. It is just -- you know, it is just sort of saying it is a little disturbing, right? So we asked them to go ahead and do a public process and that process is going on now. I haven't participated in it, but I suspect that there is somebody here from Hawaii who has. But that process is going on and involves the states, it involves stakeholders and it involves a clear and definitive area that people can talk about. So it is a
good public process.

What we are concerned about in this process is two things and I will speak to your consensus document if I could. One is you have to have one person in charge. If you are going to manage fisheries in this country, you have got a fishery management system, it works, people get it, they participate in it, they like it and it produces sound management.

It also produces discussions and sound management about things like MPA's, time and area closures I call them, and no fishing zones, which I think you called marine reserves. But basically those discussions are going on today as part of a fishery management system. So that -- and for us, that is where we would leave it.

So we wouldn't create a layer to interact with the State of Massachusetts or something. We would actually go, you know, novelly, to the director of fisheries in the State of Massachusetts, who is on the Council, and say it is your job. You have got to be working -- you have got to make sure that you are working with your planning agencies and your other
agencies to ensure that that activity is going on. So all I am suggesting is, the mechanism is there to do a lot of the stuff that I think you are trying to do.

The second part of this is we suspect that -- you know, this may be unpopular, but we want a known management problem, you know, a real problem, you know, something that you are going to address. I mean, is it habitat? Is it a need for better science? Is it a need for ecosystem management? I am not sure what that is and I am not sure how to define it, but, you know, maybe if you could define it for me, I could figure out how to apply it.

But a real problem, not something that somebody just says, isn't this a hell of a good idea. Let's have a string of these along the coast of Alaska. Boy, what a great idea. We will stipulate, by the way, that if you put no fishing zones in 20 percent of the ocean, that as long as it wasn't a hundred and, you know, eighty miles, a hundred and sixty miles out to two hundred, I mean, that would make it obviously quite as positive an impact, but if you, you know, put it out there at the right place, clearly you would improve
fisheries, but to what end you would improve them, I
have no idea.

Scientifically supported. I took out sound
science there. I know -- I can't remember -- I am
pretty sure I put sound science in the Freedom to Fish
Act and everybody took me to task for it and I thought
well, what is the right word. I asked a group of
environmentalists. I said what is the right word.
Four months later they came back and said we really
couldn't come up with one.

The concept is it has got to be part of the
solution and this, to me, I am going to take -- say,
periodic review is important. Frankly, all of your
MPA's in New England, you know, they are all based on
periodic reviews. There isn't any. There ought to be a
plan on how you go ahead and review those things.

And then lastly, you have to preserve public
access if it is at all possible. Clearly, there are
places where no fishing zones are appropriate. There
is no question about that. I favorite it with the
Monitor Sanctuary. But even there maybe you could add
fishing if you are trawling for marlin or something.
But they are clearly appropriate some places. I have become convinced that science reserves may make some sense, but they have to be the last resort not the first take. You don't start on day one in saying look, our goal here is to limit the public's access to that resource. With that, I will give up.

MR. ZALES: Thank you, Bob. If we could, I would like to hold questions and let Bobbi do her presentation and then ask questions of both people.

MS. WALKER: You are going to have to hit the button on the first and second slide.

I am here now representing — I have got another hat on — the National Association of Charterboat Operators. I am the executive director and we have over 3,300 members across the United States and we support MPA's that are science-based that only eliminate recreational fishing activity when scientific evidence supports it, allows for public participations, is monitored on a regular basis, is reviewed every five years to assure that goals are being achieved.

Coordination and cooperation between local, state and federal entities, which is something that Bob
Zales referred to earlier about the estuaries and when you put in an MPA in federal waters, how is that MPA affected by state waters or local waters.

Under science-based, we believe in protecting areas viable to the conservation of species and habitats such as spawning and nursery grounds. We supported the Madison-Swanson closure to bottom fishing to protect spawning gags or unique habitats.

In eliminating, we only eliminate recreational fishing activity when scientific evidence supports it. We believe that baselines need to be established prior to the implementation. Recreational anglers need to understand what will be protected with the MPA and how their activity adversely affects the objectives of the MPA.

Allows for public participation. Compliance with MPA regulations are better obtained when the public has an opportunity to participate in their development and in their goals. Public acceptance of the various types of MPA's and MMA's is crucial to the establishment. If monitored on a regular basis, as I said before, baselines needs to be established prior to
implementing an MPA or an MMA. Goals needs to be identified and published.

Time lines need to be estimated for reaching goals. Monitoring schedules should be established and reported on a regular basis. And I know in our council process, in the Gulf of Mexico, we receive updates every year and we would think that you should publish updates at a minimum of every year.

Reviewed every five years to assure the goals are being achieved. And what we mean by that is that right now currently the councils are the ones that implement the MPA's so that there would be a review process publicly. You take the baseline numbers and give progress reports. This will insure public support, it will give you reports on enforcement to know what the effectiveness is and it will help foster compliance through outreach and education.

You must have local, state and federal entities support the goals of an MPA. They will help through enforcement and joint plans that will enhance the ability to reach the goals. Mine was short and sweet.
MR. ZALES: Thank you, Bobbi.


MR. NUSSMAN: I don't have a question, which may surprise you, but nonetheless, I wanted to just comment for a second. Bob Fletcher, he called me yesterday and wanted for me to pass his regret for not being here. His father is in the hospital and I don't think they know how, you know, the nature of the issue right now. So he was very concerned and wanted to be here, but felt like he couldn't leave the west coast right now. So just on his behalf, I wanted to express his regret in not being here. So thanks.

MR. ZALES: Tundi.

DR. AGARDY: I have a question for you, Bobbi. Thanks for making it short and sweet. About how you consider baselines, I wondered if you could just expand on that a little bit. I think maybe there is a differing perception among some of the committee members on what constitutes a baseline. I think the scientists among us would argue that you can't have a baseline unless you have closures because you can't understand what the natural condition is in order to
evaluate the effects of fishing, any kind of fishing. And I think what you are getting at, maybe, is the baseline of the current level.

MS. WALKER: Exactly.

DR. AGARDY: And then you would assume that if you have made a closure, you would expect some kind of improvement.

MS. WALKER: Depending on what your goal is. If your goal is to protect a spawning aggregate, like gag in the Madison-Swanson, then certainly every year if you are down there and you are filming, if the MPA is working, you are going to see more spawning gag groupers there. So it depends on what your goal, but I think the only way you are going to know if you reach your goal is to have a baseline to begin with. This is where we are regardless of how bad we may think that baseline is, but you have got to know where you are starting from to know what the accomplishments are of implementing an MPA.

DR. AGARDY: Okay. That is -- and you can't really make the statement if you see no improvement in the condition, it wouldn't necessarily be because the
closure didn't work, it might be because your baseline -- your starting point is at a point where you are below minimum viable population size or you have reduced the genetic diversity or there are other biodiversity impacts that play into this.

So in other words, I think some of us that advocate for the use of MPA's with some element within them of closed areas, advocate for the use of MPA's so that we can better understand and measure the effects of both recreational fishing, commercial fishing and all of the other ways that humans impact the marine environment. So I think we use the term “baseline” a little bit differently from --

MS. WALKER: Yes, you do, but I think that going out there to close an area just to close it and say we are going to study it and we are going to find out what it does, if it works, you are going to have a great difficulty getting public participation there. They have to be able to tangibly see what your goals are, what you are trying to reach, and without that outreach and education, if you don't get support from the public, it is not going to work because we don't
have the enforcement out there on a daily basis to make
sure. No one is going to respect that closed area
unless they know what it is for and they know that it
is being measured.

MR. ZALES: Mark.

DR. HIXON: Thanks for you presentations. I
have a question for Bob Hayes. In both your
presentation on at least one slide and also in
Mr. Fletcher's handout, there is this mention of “sound
science.” Would you provide your definition of sound
science, please.

MR. HAYES: Let me start with at least the
precautionary approach. Let me start with that. CCA
tested in 1987 before the Senate that councils ought
to adopt a precautionary approach in all management and
all development of their science and their management
regimes. So when I say sound science, I am talking
about something that is fairly loose.

We are not talking about counting buffalo,
obviously. This is not an easy thing. If anybody in
this room could tell me what ecosystem management is
and ecosystem designs and biodiversity -- I mean, I get
the concept, but a science that had a predicate in it
that said that we absolutely can tell you what this
means and what the components are of it and how it
works is not what we are looking for. That is not
sound science to us.

Sound science is something more than a simple
arbitrary whim that says, okay, what we are going to do
is we think this is a hell of an idea. We are going to
going out and test it. That, to us, is not very sound
science. So I can't give you an exact definition and
that was the problem, frankly, that the environmental
community had. They couldn't come back with one either,
but, you know, I would be more than willing to get a
definition of it because I would insert it in the next
bill.

DR. HIXON: So if I am understanding, you
don't have a definition of sound science?

MR. HAYES: You can assume that I don't have
one and that you don't either.

DR. HIXON: I have my own, yes. Thank you.

MR. ZALES: Rod, do you have your hand up?

DR. FUJITA: I think there is a request for a
further explanation from Mark Hixon.

DR. CHATWIN: Yes. Can you give us your
definition of it, Mark.

DR. HIXON: Well, as having been a scientist
for 30 some years, my definition involves a peer review
process of some type or another, either within an
agency or preferably in peer reviewed scientific
literature in reputable journals.

MS. WALKER: And if I might add, that is what
the Council uses also for a definition of sound
science.

DR. HIXON: Thank you.

DR. FUJITA: Yes. I want to make a couple of
points. Thanks for your presentations. One is that --
one of the problems that the environmental community
has with the term “sound science” is that it has been
taken to mean scientists supports your position. So it
is science with an agenda. And so the appropriate
construction of I think what we all want to see is
science without an agenda that is peer reviewed. That
is a check for objectivity I think is what Dr. Hixon is
going at.
MR. HAYES: Actually, I should point out, that is what we are looking for as well.

DR. FUJITA: Sure.

MR. HAYES: We are not trying to get science to support our position.

DR. FUJITA: No, it is objective science.

I had a question about -- I was very intrigued by your comments about the buyout of the bay shrimp fishery. We are trying to do something similar on the west coast and what we are -- our theory of victory there is that the buyout won't really work unless we can enclose the buyout in some kind of governance, some policy to prevent the dissipation of the benefits.

So you buy all these boats out. There are all kinds of incentives in the fishery to recapitalize in capital stuff because it is still, you know, managed under limited access or open access. So have you considered any kind of policy reforms to protect the investment that you are making in buying all those permits and boats out?

MR. HAYES: We have done a couple of things. One, obviously, you know, the first thing you have got
to have is a limited entry system. That is obvious.

We, on the first tranche, if you will, which was about five years ago, we put in a series of MPA's. We put in a series of areas that were closed to shrimping and we put in a series of measures that were designed to enhance portions of the shrimp fleet, which is where the economic side of it is since that is where the most money comes out of it, and to decrease the other side.

It turns out there is two kinds. There is sort of food shrimp and bait shrimp. It turns out bait shrimp is worth a lot of money. It turns out the other is dictated by an import price, which isn't very good.

And so we have begun working with the inshore shrimperies to kind of see which -- where we can ship those guys out.

Frankly, we have not looked at the efficiency of it yet, but Texas -- this all has to be done through the Texas state legislature. This is not exactly a simple thing to do. There are some proposals today in the Texas state legislature to look at other ways to modernize that fleet and insure that you get the conservation benefit with it.
DR. FUJITA: And thirdly, if I may, Bob, I am always puzzled by the presumption in the FFA and in the positions that you have shown us today that -- I mean, the precautionary principle is supposed to protect the long-term national good and the intergenerational equity and all those things.

The presumption that, you know, the policy position that you are advocating here basically says, you know, don't limit this one activity that benefits a specific sector of society until you can show, you know, scientifically that it has having a problem or making a problem, having adverse effects on the public trust. My question is, would you support that kind of policy for other activities that benefit a single sector?

MR. HAYES: Sure.

DR. FUJITA: You know, toxic chemicals. They benefit the chemical industry. Should we presume that they are not having an adverse effect and allow them to be used.

MR. HAYES: Well, the question is, are they having an adverse effect. I mean, I just went out and
battled two LNG plants on the adverse effect. I didn't have any problem doing that.

What we are talking about here is not something that is purely recreational. When I say the public, I mean the public. There are lots of activities that go on in the ocean and if we are going to limit people's access, realizing that access to recreational fishermen, frankly, from a value standpoint and economic standpoint is far more significant, but any limitation on access, even all of that the collection of closed areas that went up there in New England or the Gulf of Mexico, ought to have -- you know, you have got to have a scientific basis for that.

It ought to be part of a management system. It ought to be the result of a public's -- a public process and it ought to, in the end, have some kind of periodic review in which people can go back and say hey, did we solve the problem we had in the first place or have we just got a big block out there that now mid-water trawls can't go in because 22 years ago we thought that was a good idea.
So I am not wed to what was originally in the Freight and the Fish Act, and it was frankly there by design, which was this is a recreational activity and this is something that is purely directed to recreation. I am much more wed to the principle and the process that says if you have got have a big public process and you are going to limit access to this resource, you have got to have some reason to do it and that reason has to basically be reviewed over time to insure that you are achieving the objective you laid out when you first put it out there.

MR. ZALES: Barbara.

MS. STEVENSON: Yes. Just to the question that was asked of me during Bob's presentation. Closed area two was, and I believe still is, closed to charter party boat vessels that have groundfish permits because you can't fish in groundfish -- it would have been closed to recreational fishing except for two reasons. One reason was it is so far offshore that there was no purely recreational activity there, the charter party boats, the only ones that at that point went there for groundfish. And there was -- since there was no
license, there was no way to enforce the closure.


DR. CHATWIN: Thank you, Bob. This is a question for both speakers really. You both have mentioned how you think it is important for a problem to be identified and then a solution to -- for us to expend energy crafting a solution. So my question to you is, when do you recognize something as a problem. What is your baseline for the recreational -- your members. You know, when are they -- when do they decide there is a problem, we need to do something about it?

MS. WALKER: Go first.

MR. HAYES: Well, ours is pretty simple. You know, we have 90,000 members, a lot of them are on the water, and they see problems. There are enforcement problems, they are management problems, they are resource problems. We have a pretty -- a fine system that if you are a single member of our organization, within six months, you are going to get heard by a national board and within -- and in that national board, we may identify that as a problem and we will go
and try to fix it. Now you are talking about the trigger.

DR. CHATWIN: Well, I am talking about --

MR. HAYES: We use the same traditional mechanisms everybody else uses. We use, you know, resources declining, our fishing rate is too high. Whatever the traditional management measures are. We have -- maybe I can explain CCA a little bit better.

I am pretty certain we have 20 members on fishery management councils. We have 200 members someplace in the Fishery Management System either on advisory committees, on -- at the council level or at a state level. Two hundred maybe way too low. We have fishery management committees in all of our states. I think a small one has probably got 25 people on them. And the triggering mechanism they are using is essentially the same triggering mechanism that is used in that system.

DR. CHATWIN: Well, I mean, I think those numbers are impressive, but they don't really address the issue, which is you are telling us that we should include a recommendation for the establishment of a
baseline and that everything should be measured in relation to that baseline. Do you apply that same principle to your work? Do you have a number of fish per recreational fisherman? If they are not catching that, if they go out to the water and spend four days fishing for it and they don't catch them, is that when you say, oh, look, we have got to do something?

MR. HAYES: No. You know, it is funny. We -- I probably didn't mention we have folks sort of just like you, you know, we have good scientists, and most of the management problems that get identified filter through our scientists and by and large, they are the ones that are coming to us identifying the specific problems.

You know, I am your basic lawyer. I am not a scientist. And so what I do is I rely on our scientists, on the public scientists, on the councils. We got into the LNG thing, frankly, because the Council and its staff basically started coming to us and saying, hey, we have got a big problem here.

DR. CHATWIN: So if I may, this is my final comment. I think that -- oh, I am sorry.
MS. WALKER: In the charterboat industry, we work very closely with the National Marine Fishery Service and the different science centers. We are out on the water sometimes more so than your private recreational fisherman that is only working -- or only fishing once a week or once a month. We are out there, four, five, six days a week.

We do instill -- when we have catch problems where we know that there is a problem because fish have moved or we feel like, you know, a fishery is over fished, we have gone to councils and said, you know, we think there is a problem. We have encouraged stock assessments. But mainly we depend on the science centers to tell us the status of the stocks and what the problems are or the councils.

DR. CHATWIN: Right. And so I mean, this is my comment. I think you should be happy with the content of our draft report here because it espouses a lot of the same values that you have listed there with some very few exceptions, the exceptions related to this baseline issue, scientific burden of proof, et cetera, et cetera, and in your work, you have a very --
compared to the mandate of this committee, a very narrow focus.

It is a species-specific focus on the game fish and you listed a number of them. And we have interests from -- I mean, all sorts of interests represented on this group and we have to come up with a consensus document that represents the consensus of all these different interests.

And I have real trouble saying yes, we should adopt this baseline concept when it can't even be applied when there is a single species focus. You know, we don't have an example of where that is being applied as a baseline, you know. So that is my comment.

MS. WALKER: Well, I just told you about the Madison-Swanson where the problem was that that was an area where gag grouper aggregated to spawn and the scientists that did the study and came back and showed us this was, you know, a perfect area that closed to protect the species, they have over the years, since it has been closed, done filming.

So you can do it species-specific to a site
because that is what they are looking for. They will put the cameras down there and leave them and they are actually counting fish that are coming by. I mean, I think you can do it by species.

MR. HAYES: Actually, I should point out that I know that CCA, and I suspect the charterboat industry as well, has endorsed at least one of these complete closed areas off the State of North Carolina that the South Atlantic Council is looking at. It is purely geography. It has almost nothing to do with the species.

MR. ZALES: Wally.

DR. PEREYRA: Thank you. Bob, first of all, I am pleased to hear that you are not opposed to non-recreational take of marine resources.

MR. HAYES: And recreational pollock fishing is important.

DR. PEREYRA: But that said, the definition that you gave of a commercial fishery, I probably could accept that as the modus operandi of an open access commercial fishery to try to catch as much fish as you can as fast as you can, but experience in the North
Pacific over the last 40 years is I have watched the fisheries evolve into a more rationalized to right spaced managed fishery and I participate in a rather large one up there.

The modus operandi has changed dramatically to one of trying to make certain that the long-term viability of the resources there because you have a vested right and also that you are operating to minimize your costs and maximize your revenue. And it changes the whole character in the way which the fisheries is prosecuted, which has been quite positive for the environment. But the question I had has to do with the recreational fishery and that I have seen this in recreational fisheries that are -- that have a lot of participation and they are focused on what I would consider to be trophy fish.

For example, the Kenai River. You have got a trophy salmon fishery up there where people are after these very large king salmon and you have very specific bag limits, but that doesn't necessarily prevent a person from still fishing recreationally and catching fish and releasing them and because of the nature of
the river and the way in which the fishery is
prosecuted, there is probably an unintended mortality
from this non-take fishing activity.

And very difficult issue to get a handle
around and get a measure of it is very important for
the long-term sustainability resource. How do you deal
with that within your organization and some of these
trophy fisheries you have, you know, marine fisheries?

MR. HAYES: Yes, bill fish I think is --

DR. PEREYRA: Bill fish for example. Maybe

some of these groupers or whatever.

MR. HAYES: -- a really, really good example.

And groupers are good examples. Groupers are a far
more difficult problem because when you bring a grouper
up, there is some problems.

DR. PEREYRA: Yes.

MR. HAYES: But let me just use the bill fish
example. First of all, we are concerned about this
whole concept of post release mortality. The councils
have post release mortality figures that they use when
they do their stock assessments. So it is factored in.

But it is not as accurate and it is certainly not as
good as it could be.

   When I talked a little bit earlier about, you
know, regulations don't apply to us even if they hurt,
post release mortality is going to hurt, but it is
clear to me that we are headed in that -- we, as a
community, are headed into addressing that problem.
And let me tell you one of the interesting
technological things that looks attractive at the
moment.

   There is -- a bunch of us went to Congress and
got two-and-a-half million dollars for bill fish
research. A big chunk of that money is being used to
take a look at using circle hooks in the bill fish
fishery with live bait. And there is some preliminary
evidence that suggests that if you used it and they
were used properly, you could have a significant
positive impact on post release mortality.

   There is an estimate for white marlin, which
is the most critical of the marlins -- it is about 15
percent of its MSY and it has got some other problems
out there because of the bycatch of longline fishery,
but from a recreational standpoint, there is a concern
that the bycatch mortality there may be as high as 30 percent. Well, for people that know U.S. bill fish regulations, the United States is only allowed to land 250 marlin, that is it, out of the Atlantic ocean.

If we are having a 30 percent bycatch -- a release mortality, we have a serious problem. There are tournaments that catch a thousand of them in a weekend. So that, you know, that right -- that would exceed the same mortality that we are trying to control.

So we are starting to do some research on that. There is some federal regulations that they are now talking about to require that and I will let Bobbi talk about the groupers because she is far more familiar with it, but those are real problems and they are going to require real solutions.

MS. WALKER: And we have also had some studies done on circle hooks and reef fish in the Gulf of Mexico and right now they are being used voluntarily, but the Council is looking at making them mandatory.

MR. ZALES: I have got John and you are next, Bob. John.
DR. OGDEN: Oh, okay. Thanks to you both for your presentations. I would like to ask Mr. Hayes a question. I am somewhat mystified that you have actually read what we have written because we -- as Tony said -- I would like to reinforce that point -- we are all about process and if you read this document, we are about the people, about regional stakeholder involvement, about principles and they are of a very general nature that are not prescriptive in the slightest degree.

We are about setting goals, we are about evaluating those goals. We are about adaptive management, which essentially is the point at which you say well, maybe we are off on the wrong track on this particular effort and so on and so on.

And I would just like to ask you where have -- you said you have read this document. Can you give us your opinion as to where we have gone wrong in what you emphasize so strongly, which is basically process and stakeholder involvement?

MR. HAYES: There is two things that I would point to that I think are something that ought to -- at
least would improve the document. One is this issue of access. At least the one sector of the user groups and in the ocean, access is so vital to the economics of that activity that any limitation on it has to be more than simply a stakeholder process, it has got to be identified as something that is intended to be avoided.

DR. OGDEN: What you are saying, then, is that you would like, you know, in a document which is crafted to be essentially encompassing and encompass the people and their many and varied interests -- and you have traveled around this country and asked people is there a problem in the coast and you are damn right there is a problem in the coast, there are all different kinds of problems -- you are asking that this particular stakeholder group, one group essentially, be singled out within this stakeholder driven process for special attention.

MR. HAYES: I am asking that access be considered because it is of such importance to one particular sector.

DR. OGDEN: To one particular sector.

MR. HAYES: And if you missed the point, I am
the general counsel of the Coastal Conservation
Association. We represent anglers.

DR. OGDEN: No, I got you. I got you.


MR. BENDICK: Just a definition of, if you
could give us a definition of what a recreational
fisherman is and are spear fishermen included in that
category and various other methods of taking fish?

What is a recreational fisherman?

MS. WALKER: Well, I think it is in the
Magnuson Act, it defines recreational fishermen, but
anybody who is out there taking any species or anything
under bag and size limits and under recreational
regulations. And so a spear fisherman would be
considered recreational.

MR. BENDICK: What about the selling of fish
taken in -- within that umbrella? How does that fit
with the definition?

MR. HAYES: I will just give you CCA's point
of view. CCA's point of view is if you sell a fish, you
are a commercial fisherman. Period.

MS. WALKER: The same here.
MR. ZALES: Okay. Dave and then I have got one.

MR. BENTON: Thanks, Bob. I sort of what to follow up on a couple of the questions that have been floating around here and see if I understand what you are saying and it has to do with the issue of a baseline issue of identifying a problem or a purpose and then a bit about process. So I am going to ask those one at a time. I just wanted to let you know which ones I am going to ask.

If I understand it correctly, really what you are saying is that an MPA ought to be -- if it is going to be established, it ought to be established with a purpose to address a problem. Is that right?

MS. WALKER: Yes.

MR. HAYES: Right.

MR. BENTON: Okay. And the reason, in part, for that is if people are going to be displaced because -- or affected, then they ought to know the reason why. That seems like an infinitely reasonable proposition to me, but is that what you are saying?

MS. WALKER: Yes.
MR. BENTON: Okay. So in order to understand, then, whether the -- to get past that hurdle, in order to understand whether or not this thing is effective in addressing the purpose or the problem, you want to have it evaluated and in order to do that, you have to have an information base against which to judge any change that occurs because of the designation. And that is what you are talking about when you say baseline.

MS. WALKER: Exactly because it -- how are you going to know that marine managed area or that marine protected area is even reaching its goal if you are not monitoring it. You know, it is just beyond me and I am just a layman, but it is beyond me how -- you have got to have goals.

How are you going to measure them if you don't have a baseline, if you don't have something that you start from that you can tell the public we have denied you access to this area because of this problem. We have researched this area. This is the best area to use for whatever purpose for the recovery of the goal, whatever goal it is.

If you can't tell the public it is improving,
it is working based on this monitoring schedule, based
on this review, you are not going to get public support
and if you don't get public support, then you can set up
MPA's all over the United States and I promise you none
of them are going to work.

MR. BENTON: Bob, I have got just one more
part of this.

MR. ZALES: All right.

MR. BENTON: One of the things that we have
tried to do is look at process. To me, really what --
our work is less about debating the merits of having
MPA's because you and the councils have pointed out, and
a whole bunch of other people have pointed out, MPA's,
maybe under a different name, have been around a long
time.

MS. WALKER: Have been around a while.

MR. BENTON: And but there is an issue about
process and one of the -- I think one of the issues
that we have is how do you, then, look at the costs,
the effects, the impacts on users, say recreational
anglers, divers, boaters, whatever, of that designation
and whether or not to include -- in our recommendation,
whether or not to include something that says you need
to look at that and you need to evaluate it when you
are thinking about designating an MPA or implementing
certain measures in that MPA.

And what I am hearing you say is that that is
a very important component of trying to get acceptance
so that the thing is effective and if you don't do that,
then you are going to have a big problem because people
won't understand what they are getting, they won't
understand the reason that they are being affected or
displaced or put, you know, at some disadvantage and
that is going to cause -- downstream that is going to
cause other issues.

MS. WALKER: Zero compliance is what it is
going to cause.

MR. BENTON: Okay.

MS. WALKER: If they don't understand it and
you don't educate them in some type of an outreach
program as to why this needs to be done and its goals,
you are not going to have any compliance and there is
not enforcement out there. You are not going to put
VMS's on every recreational vessel in the United States.
That isn't going to happen. Congress will, I am sure, stop that.

So the only way that we have found is compliance is really based on education and outreach and groups feeling like they have been a part of setting the goals, what they want to see happen there.

MR. BENTON: So and then I am done. So just to sort of reach closure on all this, for my mind anyway, if these -- if the kinds of things that you have been talking about are not part of a process to establish a national system and to designate individual MPA's into that national system, is there going to be much acceptance for that national system and what is the -- well, Bob knows what the likelihood might be of getting funding for that and that kind of thing back in D.C. He has got more experience than most of us I guess.

MR. HAYES: You know, the one thing -- Bobbi is absolutely right about this. When I put up something that sort of showed the difference at the regulatory commercial and recreational, commercial fisheries is a highly regulated activity and the
companies, by and large, take on the exercise of educating their employees to what those regulations are.

Recreational fishing, by way of numbers -- you are talking 13 million people here -- it is not. It is regulated by season, size limits, bag limits, those kinds of things, but it is not regulated in the same sense and there is no vehicle, natural vehicle, to educate that recreational public about what it is they ought to be complying with.

Now if you get a permit, if you get a permit, you get a set of regulations with it, no question about it. Most recreational fishermen know what the season is, they know what the size limit is, they know what the bag limits are and they get it because they -- it doesn't matter where they go fishing, something like that applies.

But when you start to take areas and you start to say, okay, you can go over here, but you can't go over there or you shut them down entirely part of the season, half the season, whatever, those are very difficult things for recreational fishermen to feed
into their normal response to the activity and the way
in which you would have to do that is to educate them.

We don't have a -- these folks do because they
are in the charterboat business. They have got the
ability to go ahead and educate the average charterboat
fisherman. The recreational fisherman, we don't have
that capability. If you, for example, read all of the
press, you know, and Field and Stream, Outdoor Life,
all of that stuff, read it. It doesn't talk about oh,
by the way, there is a big closed area off of Georges
Bank. Oh, George's Bank is too far out, but Stellwagon?
Is that it? Anyway something up here that they are
talking about, a closed area, and they don't have those
things.

You have to include that in your process of
implementing those because without it, you are going to
get no buy-in whatsoever and it is not that they want
to go out and violate it and not be -- you know, be out
of compliance, they just will out of sheer ignorance
for the most part.

MR. ZALES: Okay. Mel.

MR. MOON: Yes. I would like to thank the
speakers for coming and giving their perspectives to us. I appreciate that. My question is to Bobbi. I know you had on your presentation a list of some criteria for these approaches for MPA's to exist and we, as a committee, had the opportunity to meet at one time down in Florida and go to the Keys and have a discussion with the Dry Tortugas and the Keys sanctuary manager, Bill Causey, and we actually had some opportunity to speak candidly with the advisory committee as well.

I suspect that you, in your area, have had an experience with that forum as well and I was wondering if you could explain your experience with the proposal of that sanctuary and how it acts with you as a council member and your organization. How is your experience with that sanctuary?

MS. WALKER: Well, as you know, they manage the sanctuary. The Council really doesn't have authority over it; however, we have worked together. They come to our council meetings and they give us feedback and reports on what they have done, enforcement reports, what they think.
For instance, American red snapper, some of you may know it, they are probably one of the most overfished species, I guess, in the Gulf of Mexico. And Billy has come there and through their studies, you know, they have reported to us that they have seen them spawning now. So we kind of interact like that, Mel, but not often. I don't think we interact with them often enough.

MR. HAYES: I should point out one thing that occurred about two weeks ago. Somebody tried to expand the no fishing zone, I think it was the Department of Interior, in the Dry Tortugas and to do that, they have to go to the State of Florida to get their concurrence and that has been stopped by the attorney general in the State of Florida. But no process, no public process, no statement, no nothing just a document that was attached.

MR. MOON: I guess I brought it up because I think it is one of those elements that we can look to for sort of a lessons learned type of approach and I was probably assuming that you had applied some of those to your list, but it doesn't sound like that that
My other question was, are there other areas in your region that are undergoing a proposed MPA listing that is either by the state or private organizations or the feds?

MS. WALKER: Well, in the Gulf, if you remember, I showed you I think there were two slides up there that were proposed areas that are for HAPC's and in the Gulf, we manage those -- once we give them the designation of an HAPC, we manage them through closures or gear restrictions, but I think there is probably several.

I know the South Atlantic has just done an extensive -- the South Atlantic Council just did an extensive public hearing process on identifying areas in the South Atlantic that they were looking at for MPA's.

MR. ZALES: Okay. We have got about four minutes left. I have got about three people left: George, Max and Larry. George.

MR. LAPOINTE: And I will try to be quick. First I want to thank the speaker for grabbing the
lightning rod on these kind of issues because they are tough ones. I have a comment about the baseline issue and the access issue that I think is important to discuss in the context of our report and the understanding.

First with access. All users are interested in access. Barbara Stevenson doesn't make money if she doesn't have access. A Bar Harbor Ecotourism doesn't -- if they don't have access, it doesn't help them. If Mark Hixon can't get into an area to access it for scientific research, it doesn't help him.

So the access is, shy of my mother in Missouri having some, you know, peripheral love of the ocean, for the rest of us, the access issue is an important one and it needs to be defined -- identified as an important attribute in our designing a natural -- a national system and then defined in the context of an individual MPA because that is going to be important.

And then with the baseline issue, again, I think it is one of definitions whether you are doing from now forward or looking backwards. And that is one that I think we need to be honest about which baseline
we are talking about.

And if you put it in the context of an industrial chemical we are concerned about, if we have chemical X and George LaPointe is responsible for reducing X from the current level to 50 percent of the current level, that is a great improvement, but 50 percent of the current level might still be way too much and we need to define what we are trying to do. I mean, the goal might be getting it down to 1 percent of the current level. And so again, it is one of being honest about which baseline you are discussing as you move forward.

MR. PETERSON: Okay. Let me first agree with George on the access question. I think it is much broader than recreational question. It is a question of the ocean is a shared resource. The question is how we are going to share it. Let me also express great appreciation for you all giving us a little course of reality today, of telling us that if we do some things, it probably won't work.

Two thoughts. I would recommend we avoid the use of “baseline” because it has a very specific
scientific use. And if we are talking about current conditions, just talk about is it an improvement from current conditions. As George says, the improvement may not be enough, but at least everybody knows you started from current conditions in 1989 and this is the improvement or something else and not put the word "baseline" on it. It says a very scientific thing.

And finally, the executive order repeatedly used the word "science-based." It doesn't use sound science or pseudo science, it just uses science-based and to that, that speaks to me. I think science is science and I wouldn't put any definitions on it.

Anyway, thank you all very much. I really appreciate your participation.

MR. MALONEY: Okay. Just a quick question. Again, thank you for being here. As I understand what you all discussed, there has to be a known problem or a problem identified that would trigger action. Is it possible or in your opinion desirable to manage these resources so as to prevent problems occurring?

MS. WALKER: Well, are you talking about developing an MPA just to develop an MPA and not have
any goal associated with what you are trying to do?

MR. MALONEY: You know, most people try to --

whether they own housing or whatever, they try to

manage things to prevent the occurrence of problems.

How does that apply to your premise that you act from a

known problem?

MS. WALKER: Well, I don't think that any

person who currently has access to these areas, without

identifying a problem, I don't think you are going to

get a whole lot of support in just developing an area

unless you have some scientific reason for a study area

or something like that, but you are going to have an

outreach problem and you are going to have to make sure

that you educate those people for why you are doing it.

If you don't, it won't matter what you do.

MR. HAYES: There is a plan that was

attempted, I think it ultimately got turned down by the

National Fishery Service, but it was on sarcasm and the

whole idea was to take a geographical area and say this

is an important spawning area and important nursery

area. We ought to do something to insure that it is

not harvested. At that point, I think there was one
harvester I think was all there was and they grandfathered that fellow in.

But that is an example, I think of sitting there and saying, okay, this potentially could be a problem and therefore, we have to take an approach that says we have got to protect this. I don't think any recreational fisherman are opposed to that approach. What they are opposed to is arbitrariness and not being part of the process and not, essentially, knowing why they are doing it. That is where you get the opposition. And I would argue that that is true with commercial fishermen as well.

MR. ZALES: Wally, you get the last word.

DR. PEREYRA: Again, thanks, Bob, for your enlightenment. I came in on the commercial side. Sometimes I lose sight of the fact that recreational fishing is important too. You mentioned -- Bob, you mentioned earlier about the net ban and down in Florida I believe -- it was one I know for sure -- and that certainly helped to shape the direction of which your commercial and recreational fisheries if you cite demographics.
That process that you went through in establishing the net ban, was that done through an open participatory council process like you are supporting or was it done through a more focused lobbied legislative process. And if it was the latter, why did you use the former?

MR. HAYES: Let me -- it depends which state you are in. In the State of Texas, it was a legislative process; in the State of Louisiana, it was a legislative process. It was a legislative process in Alabama, South Carolina and I believe Georgia. The only place in which we used the referendum was in -- and there are two of these. There is one in the State of California and there is one, which we did not do, but was done this way. And there is one in the State of Florida.

I actually had that question asked to me recently by I think Bob Jones or somebody. And he had said, you know, you are in favor of an open public process and why did you use a constitutional referendum to do that. And I thought what could be a more open, public process than a constitutional referendum. You
know, the whole State of Florida voted 80 percent in favor of the -- in favor of it. Pretty open. Pretty available to anybody who wants to use that process.

And the reason we use that process, frankly, is because at the time, the state regulations in the State of Florida were a highly political process that had to be approved by the cabinet. And so we didn't think that was going to be very lasting. So we proceeded off to a constitutional amendment.

DR. PEREYRA: Sometimes minority interests have trouble prevailing in referendum processes. So that been said --

MR. HAYES: Public policy-making is a difficult thing.

MR. ZALES: Okay. Thank you all and thank Bob and Bobbi for being here and making this presentation and I hope that everybody on the Committee has learned a little bit and been educated a little bit. So thank you all.

(Applause.)

DR. BROMLEY: Okay. We have a half an hour before we break for lunch and the agenda says that it
is time to discuss the process for the review of the synthesis document. Am I -- is this microphone okay now? So let me try to set the stage for that process and I want to do so by going back to September.

We met in September and we produced three subcommittee reports. We had a period in November and December in which -- I guess it was primarily November because I think December 6th was the cutoff, but at any rate, the point was, we spent sometime discussing the three subcommittee reports as freestanding entities, getting them sort of right. We produced a January draft, which went to everyone. We made some revisions in February at our meeting. And so that was sort of the February version, which was distributed to us after the February meeting, which I will sort of call the March draft.

The March draft of what we have been calling the synthesis report because of the sense -- the way -- the synthesis came from the fact that we had three subcommittee documents that we were trying to integrate and it probably would serve us well now to drop the adjective “synthesis.” We have a draft report in front
of us. We have had it for some time.

We asked that by April 15th -- an inauspicious date, I guess, in hindsight -- that by April 15th, we hear from you and we then realized that Friday, April 15th was -- it would be better if we extended the deadline until Monday the 18th, and we did that, but about the 14th of April, we began to get lots of comments, which were wonderful.

Those comments tended to follow two categories. Some of them represented new issues, issues that, in a sense, we had not had a chance to discuss thoroughly in our committee, and the other kinds of comments concerned tone and language. So in a sense, the executive committee was faced, when we had to sort of integrate what we heard from most of you on the 18th of April, these two categories.

So we did make a distinction at our -- we had an executive committee telephone conference call on the 25th and we put off to one side four issues that we felt were new, i.e., had not been adequately discussed. I spelled those out in my letter to you of May 2nd when the report came.
One of those was the definition of avoiding harm, One of them was the exclusion of mineral and energy extraction from strictures associated with an MPA, another category was the possible need for additional authority in order to implement MPA's and the fourth category was the weighing, the consideration of benefits and costs and evidence that an MPA was the least cost alternative to accomplish some goal.

So those four areas to the executive committee represented new ideas that were not necessarily bad, they were not necessarily good, they were simply new in the sense that we had not had a chance, in our deliberations, to discuss them. So they were put off to one side and my cover memo to you of May 2nd spells that out.

On the 14th of April or the 15th, I guess maybe it was the 14th, we received an intervention of hosting from Gil about access and we followed by support from three or four other people saying yes, Gil has a good point.

During our conference call, we realized that the access issue, as articulated by Gil and as
supported by some other members and as we just sort of went over here, had the potential to be a big issue, a big deal, and I suspect it still is. I asked Bob Zales at that time if he would chair a subcommittee, an ad hoc subcommittee to work on this matter of access and Bob agreed to do it and was joined by Tony and Mark Hixon.

So we had kind of an ad hoc subcommittee going to work on this issue of access and they did their work and I assume that they consulted with others on the Committee, which is fine, that is -- they should have done that. And so what you have in your packet is a paragraph that represents the end result of that subcommittee work that Bob and Mark and Tony did in consultation with others.

What I am proposing is that after lunch, we start with this paragraph on access and spend some time on it, maybe 15 minutes, maybe more, I am not sure. I don't want to spend much more than that if we don't have to, but I think we need to have a discussion about this paragraph, what it means, what you like about it, what you don't like about it, and then we have to figure out
where it goes in the report, assuming that we can reach some agreement on what the language ought to say.

So right after lunch, we are going to start with this paragraph on access. It is blank -- I mean, it is not blank. It is a sheet of paper in your packet of proposed language on access. So we will do that first.

Aside from that, aside from this language on access, the draft that you have before you and the draft that you have had with you since I guess the 2nd of May is the very best efforts of the executive committee to listen to everything that each of you has said when you sent e-mails into Lauren or to any of us.

We have gone back and reworked this draft report extensively sometimes taking one person's submission and sort of really going through it and putting in all of those things, seeing how it looked to us, going back.

I hope that it is something that all of you can support. It may not be that way, but let's hope. So what I am going to do after we have hopefully addressed the access issue, I am going to go around the table and each member of the FAC will have two or three
minutes. And I want to know only two things. I want to know if you can support the document or I want to know if you can't. And if you can support it, take a minute or two and tell us why you can and if you can't support it, I want to know exactly why and I would like to know what it might take for you to change your mind.

We will compile the list of objections if that is the right word for them, Lauren will, maybe we can even project them up here, and we will see how long that list is. We will see what we think in terms of how long it might take us to work through it.

We are going to work on that this afternoon. We have a public comment period. We have a good tranche of time tomorrow morning. And at about 11:00 tomorrow morning, I am going to call for a straw vote on where we stand. I want to know where this thing settles out. So that is the proposal. Comments?

Reactions? George?

Mr. Lapointe: I actually like that process, Mr. Chairman, because it is time to get down to brass tacks and figure out what the problems are and what they aren't. But before we got to that, I wanted to
express my appreciation to both the executive committee and staff for getting the document together to the point it is.

DR. BROMLEY: Yes.

MR. LAPOINTE: I can't -- there is some thorny issues in it, but you have compiled three different -- subcommittee reports of three different styles, you and staff, into one document that makes it as easy as possible to have that discussion. And so my thanks to the folks who worked on it.

(Applause.)

DR. BROMLEY: I will put that in the bank. I may need it later on tomorrow morning.

(Laughter.)

DR. BROMLEY: And it is not just to me, it is to Lauren, it is to everybody. I am not taking very much credit. Other comments? David.

MR. BENTON: Just a question. I would just like to -- so if I understand what you are saying, Mr. Chairman, you don't anticipate going through this document sort of page by page or in some systematic way to go over language, you would rather see whether or
not you have general support for it as it is and then
work from that? Is that the process?

DR. BROMLEY: That is right. That is my sense
that we have had since mid December, January to work on
language and what you have before you has been
languaged and relanguaged and it doesn't mean there
aren't some things in there that need work, but I want
to go around the table and I want everyone to declare
where they stand.

MR. BENTON: And then if you have -- let's say
you have got -- and I have no idea if this is true.
Let's say 60 percent of people say I don't care how it
is written, it is --

DR. BROMLEY: I am sorry. Could you do --

MR. BENTON: Sure. So what happens if, like,
you get a split vote then? What do you do next?

DR. BROMLEY: We will address a split vote
when we see it because it -- I don't know how we will do
it because I don't know how the split will come, David.

MR. BENTON: Okay.

DR. BROMLEY: I hope there won't be much of a
split, but if there is, we will see what it looks like.
The split will come on issues. The split probably should not come on just the abstractions. The split would need to come on exactly what it is you don't like about the report. Is that fair enough? And then once we see what people do not like about it, why they cannot support it, we will know how we might go. Am I answering your question?

MR. BENTON: Yes. I just wanted to know.

DR. BROMLEY: Max?

MR. PETERSON: Mr. Chairman, I think there is a probably a lot of us that have a fervent hope that we have a consensus report and we don't have any minority reports. I am a little concerned that -- I would recommend that tomorrow we ask people to address unresolved concerns, that -- and I don't see any concerns that I have seen so far that aren't resolvable and I would hope we would resolve them.

I am a little concerned about going through the formality of saying do you support the document as it is now written because I think there are -- I have two or there concerns that I think can be addressed and I would rather us spend our time seeing what we can do
to address those concerns rather than end up with potentially a polarized situation tomorrow, which I don't think will be helpful. That is just a thought for you to consider overnight maybe.

DR. BROMLEY: Is there anything in the proposal that would preclude you from saying I support this document. I am concerned about -- let me restate it. I will -- I, Max Peterson, will support this document, but I have two or three concerns.

MR. PETERSON: No.

DR. BROMLEY: And here they are.

MR. PETERSON: No, I would say that it is my hope to support the document, but I have a couple of unresolved concerns that need to be addressed.

DR. BROMLEY: Yes. Yes.

MR. PETERSON: I think that is where I am at this point and I suspect there is several others, but my concerns are not concerns that I think can't be resolved and I think the executive committee did a real good job in your writing and so on, but there are 33 members of this committee who have an equal voice.

DR. BROMLEY: Yes.
MR. PETERSON: And I think somehow we need to figure out not to put somebody who was not on the executive committee in the position of well, we don't have the same voice. I think that would be unfortunate.

DR. BROMLEY: Oh, indeed.

MR. PETERSON: Okay.

DR. BROMLEY: Indeed.

MR. PETERSON: Thank you.

DR. BROMLEY: Yes. Barbara and then Mike Nussman, I guess, and then Tony.

MS. STEVENSON: I sort of had the same concern as Max. I have one or two issues that were it not changed, I could not support the document, but we are extremely close and I believe it is resolvable, but I won't be able to say I support it. So I think -- and then I won't be able to say I support it until I know what changes are made because some things may be changed to a position that I then can't support.

DR. BROMLEY: Right.

MS. STEVENSON: But I think it is important for us to say what our concerns are, group them, and
then work on seeing if we can resolve them before we say yes or no on the whole document.

DR. BROMLEY: Okay. Mike.

MR. NUSSMAN: Mr. Chairman, I am not sure I will add anything to both of these -- both of those comments were really where I was going. What I was going to say was I won't be supporting the document until I get to hear each individual speak -- until we go all the way around and I get to hear the intelligence from the entire committee.

You know, I have got a couple of things I am interested in and as I look to those, clearly I am going to look to make sure I -- we have some understanding of what -- of how they are being addressed, but there may be other issues there that in me reading what I have read so far, I don't quite understand or fully comprehend and I would like to hear all that.

And if you would, please, you had said what we are going to do this afternoon. Please review that because I am not quite sure if -- you at some point had said you were going to ask us up or down or --
DR. BROMLEY: Yes.

MR. NUSSMAN: And I am not sure when that was.

DR. BROMLEY: Okay. Let me repeat the proposal and it is mainly a proposal is that after lunch, I was going to propose and go around and everybody has two or three minutes to say I support it and here is why or I do not support it and here is why. We are going to make a list of the do not support it and here is why issues, get them up on the board, see if they can be repackaged, collated, bundled together in some way. That was the idea.

And then the straw vote was tomorrow morning before we go to the fish exchange, the fish market, was to have -- you know, because we will have had time this afternoon, as well as in the morning, to work on these and I would like to see before lunch tomorrow where we are in this process. That is what I proposed. Tony, did you have your hand up? I had Mike, but -- if you didn't, I am sorry.

DR. CHATWIN: Thank you, Mr. Chairman. I think -- I support the approach that you have laid out and I think it is important for us as a committee to
define the moment in which we are going to decide whether we can support this or not and we can't wait until Thursday at the last hour for that. And that is the idea behind bringing it, this vote for Wednesday.

And I would also say that, you know, I think it is good to go around the table and raise issues. I would hope that we keep to those high bar issues that we stressed in the last round of requests for comments and that not -- that folks don't bring up new things because I think that has been an agreement from this body that we have gone down this road quite far and quite long and this is not the time to bring up new issues. Thank you.

DR. BROMLEY: We can sit here for 10 minutes and think about it. I -- Brian.

DR. MELZIAN: Thank you, Mr. Chairman. It is perhaps ignorance on my part, but in your May 2nd memo, you listed the four issues.

DR. BROMLEY: Yes.

DR. MELZIAN: Is it the intent of the Committee to discuss those issues during this meeting or to --
DR. BROMLEY: No.

DR. MELZIAN: -- delay them at a different --

DR. BROMLEY: Yes. The intention of the executive committee is that these are new issues that require more than an hour and a half, or whatever, that we have available. Without prejudice, we are asking that we be allowed to put them off to one side.

DR. MELZIAN: For this entire meeting?

DR. BROMLEY: For this entire meeting. That these would be issues that the new FAC would address.

DR. MELZIAN: Thank you. And why I raise this -- and again, it is my confusion perhaps. We may be able to reach consensus on these issues in May. There was a statement after the four issues. So I just wanted to get a clarification.

DR. BROMLEY: Yes. Okay. Yes.

DR. MELZIAN: I am not trying to belabor it.

DR. BROMLEY: No-no. I have to re-read my memo. Always optimistic I am, aren't I? You know, if we make fast progress and somebody convinces a number of us that some of these are easily fixed, then that is fine, but I did not want -- we did not want these new
issues to crowd out time to go to them, to the
deliberation of what is before us and what has been
before us. Max.

MR. PETERSON: Mr. Chairman, I am going to be
required to make a motion, which the Chairman cannot
speak against he gives up the chair, please. And my
motion is that we first hear concerns of all the
Committee and that we group them and look at what we
can do to resolve them, that we not rule out those four
issues because some of those issues were, in fact,
discussed three meetings ago like the additional
authority we discussed three meetings ago.

DR. BROMLEY: Okay.

MR. PETERSON: I think those are major issues.

DR. BROMLEY: Okay.

MR. PETERSON: The meetings of the Committee
are not over until the fat lady sings. So I would move
that we first hear from the concerns of the Committee
and then we decide how to proceed from that point on.
And I make that in the form of a motion, Mr. Chairman.

DR. BROMLEY: Okay.

MR. RADONSKI: Second.
DR. BROMLEY: Could you -- that is fine. Could you clarify what you mean when you say we hear from the concerns of the Committee. How would you like to have that -- does that rule out going around the table as proposed?

MR. PETERSON: No, I would propose doing that, but I would --

DR. BROMLEY: Yes.

MR. PETERSON: But I would propose that we not say -- before you do that, I want to say whether you are supporting or not supporting.

DR. BROMLEY: I see.

MR. PETERSON: I think that is unfortunate to introduce at that point. I think we need to hear the concerns of everybody. I would like to hear concerns of everyone here --

DR. BROMLEY: Okay.

MR. PETERSON: -- before I am forced to say here is where I stand.

DR. BROMLEY: Okay.

MR. PETERSON: So I am just suggesting that modification, Mr. Chairman.
DR. BROMLEY: Fine. Sure.

MR. PETERSON: Okay.

DR. BROMLEY: I have been told I can't object to it so I like it. That is fine.

(Laughter.)

MR. PETERSON: Well, you can if you give up the chair.

DR. BROMLEY: So it would be consistent with your idea that we go around the table after lunch, after we have worked on access, and have two or three minutes per person to articulate concerns; is that right?

MR. PETERSON: Yes, sir.

DR. BROMLEY: Well, when you say concerns, you mean -- did you allow somebody if they are very happy with everything here, they can also speak?

MR. PETERSON: Sure.

DR. BROMLEY: Yes.

MR. PETERSON: They can say I don't really have any concern. I am ready to support it.

DR. BROMLEY: Okay.

MR. PETERSON: That is fine.
DR. BROMLEY: Yes. Good. Do we -- it has been moved and seconded. We did that, right. All in favor? Any other discussion? Yes, Rod.

DR. FUJITA: Yes, Mr. Chairman, thank you. I liked the first part of Max's proposal, which I think it would be smart to hear concerns first before calling for a straw vote.

DR. BROMLEY: Yes.

DR. FUJITA: I am a little concerned, though, about introducing these four other issues. Even though we have discussed some of them, they are not discussed in the synthesis -- or draft report and maybe we can handle them sequentially. You know, we can make a decision on what we have got now and if there is time, we can address these issues.

My concern stems from the fact that we are a pretty weighty issue, the issue of cost benefit analysis and new authority. In particular, I have a lot of comments on that and I wouldn't like to see us sort of gloss over them in a rush to, you know, stick them in the document somehow.

DR. BROMLEY: Other comments? Yes, Wally?
DR. PEREYRA: Yes, Mr. Chairman, I would like to speak in support of Max's motion in its entirety. From my perspective, there are some rather strong statements in the document that I would probably be unwilling to accept as a standalone, but if, in fact, the document were to be modified to provide more balance, I would be willing to accept them. So in response to comments that Rod made, I think that Max's proposal is -- or his motion is in order and should be supported.

DR. BROMLEY: Okay. Yes, Tony.

DR. CHATWIN: I have a question for the maker of the motion, Mr. Chairman.

I would like to hear what you envision is going to be the process to deal with one or more of these four issues, which are so wide in scope.

MR. PETERSON: Okay. I am suggesting that we do what the Chairman suggested and that is go around and listen to concerns and if the concerns do relate to those four issues, then the Committee as a whole can decide whether to take them out or not.

That is a decision I think this Committee as a
whole to decide whether to take it up. I might not
want to take up a couple of those. I might want to
postpone them. That is up to the Committee as a whole.
I am just objecting to the idea of the executive
committee deciding what we can and cannot consider at
this meeting. I think that is an unsound process.
Thank you.

DR. BROMLEY: David?

MR. BENTON: Thank you, Mr. Chairman. The
reason I had asked my question of you earlier about
what happens, you know, if there is a split vote or
something, I support Max's motion and I suspect that
there are some issues in those -- there may be at least
one issue in those four, maybe two, that are going to
be fairly critical to some people around the table to
get discussed.

And the reason I asked my previous question is
I was sort of hoping we had a plan for how to resolve
problems or get to the next step because I believe that
the result of this is going to be a lot of people are
going to say, well, I can support this document if.
And there is going to be a lot of ifs. And so I only
flag that now as that I am supporting Max's motion with that in mind that we need to have given some thought, and I am looking to you and Lauren and others, to give some thought as to how we go to that next step because I think that is where we are sort of at.

DR. BROMLEY: Yes. George.

MR. LAPOINTE: Thank you, Mr. Chairman. I am going to support the motion to get on with discussing the document, which I think is a critical issue. I think the four issues -- I think the access issue is addressable within the context of our discussion. The other four issues, and any other new issues that may come up, my sense is that we need to allocate some time to wrestle with those.

If we can find a solution, that is good. If not, we should identify those issues in the transmission of our report to the two secretaries so that they are memorialized as ongoing issues that need resolution. That way we don't slow up approving the report, which I hope we do by Thursday, but we don't lose the issues in future deliberations either.

MR. PETERSON: Yes. I would take George's
statement as a friendly amendment and I would agree to
that.

MR. LAPOINTE: I call the question,

Mr. Chairman.

DR. BROMLEY: Okay. All in favor of the
emotion say aye.

(Chorus of ayes.)

DR. BROMLEY: Opposed?

(No response.)

DR. BROMLEY: Okay. Motion is passed. All
correct. May I say, Max, that the executive committee,
in deciding to put these four off, was not seeking to
be -- I forget quite the word you used -- undemocratic,
but in fact it came from precisely the opposite, the
care that these were issues about which many members
of the Committee had strong feelings and we had not had
a chance to freely discuss them.

I do agree with you that the issue of
authority came up, some other stuff. It was our
concern, to protect the minority, that these are
potentially contentious issues, which have not been
discussed. And that is -- I know you didn't mean that I
took it as if we were a bit arbitrary and I would like

to set the record straight.

MR. PETERSON: No, if you will agree that --

we will strike the “undemocratic” if you will strike the

word “arbitrary.” How about that?

DR. BROMLEY: Yes.

(Laughter.)

DR. BROMLEY: I think on that happy note, we

ought to have some lunch. There is a sign-up sheet for
dinner coming around. It says 6:00 here, the agenda

says 7:00.

PARTICIPANT: 6:00 is correct.

DR. BROMLEY: All right. So we are asking you
to sign. We will see you back here at 1:15.

(Whereupon, at 12:15 p.m., a luncheon recess

was taken.)
AFTERNOON SESSION

DR. BROMLEY: I guess we are basically here. Okay. The idea is that we are going to start with the submission on access that Bob Zales' subcommittee did, but Gil asked that he might have a chance to project his initial wording on the screen, right?

MR. RADONSKI: Yes.

DR. BROMLEY: So I said yes, of course. So Gil, I am going to turn it over to you and let's see where we go with this.

MR. RADONSKI: Thank you. We have before us several definitions on access. We heard about the importance of access in the presentations this morning and Dan and the executive committee acceded to the need to discuss access and I asked Dan if I might lead that discussion.

I provided an initial definition of access, which came to you in Dan Bromley's cover memo to version five. That is not -- that definition was pretty well rejected because it wasn't very concise and it wasn't very clear. I reworked that definition and the definition is what you see up on the screen now. I
will give you just a second to look at it. I think Barbara wants to interrupt, Mr. Chair.

MS. STEVENSON: Yes, she does.

DR. BROMLEY: Okay.

MS. STEVENSON: I have a serious process problem.

DR. BROMLEY: Okay.

MS. STEVENSON: We have a committee -- we had a subcommittee that you appointed that came forward with proposed language. I don't understand why we are giving preference to someone to present a different idea and not only that, a restructuring of something that they had presented earlier. I think we should start off with the Committee's recommendation and if Gil wants to say the same thing as a comment on the Committee's recommendation, then that is appropriate, but I don't view this as appropriate at all.

DR. BROMLEY: Okay. That is fair enough, Barbara. I guess I have been operating all along with the idea that the less procedurally bound up we get, the more -- the better the whole climate might be. So I understand that you might have some process concerns
here and I would be happy to overrule myself or whatever. You guys can do what you want.

Gil -- I want to avoid procedural jockeying, Barbara, but if I overstepped it to give Gil a slot here, then we can go back and let Bob get his on the board. And it is my understanding that Gil and Bob talked and so I am open. What is the sense of the Committee? I seek your counsel. The fewer motions and amendments and votes and procedural stuff we have the happier I am, but I will accede to whatever this group wants to do. Terry I see and Rob and John.

MR. O'HALLORAN: Well, before we adjourned for lunch, at least it was my understanding that we all agreed that we would at least first discuss the definition as put forth by the subcommittee.

DR. BROMLEY: Yes.

MR. O'HALLORAN: And so that is what I actually thought we were going to do. And then but I have respect for Gil. I mean, I think that that is appropriate that he can bring that up and we talk about it.

DR. BROMLEY: Yes. I am sorry. It was my
understanding that Gil and Bob talked and Bob sort of thought well, let Gil go ahead and show his language and but Bob, maybe I overstepped there.

MR. ZALES: To that point and that is what I was fixing to say. I mean, as the appointed chairman of the subcommittee, Gil and I did talk about it and even though Gil wasn't on the subcommittee, I included him in all of our communications back and forth because he was the one that initially, you know, brought this to the table, so to speak I guess, in recent time anyway. I think it has been discussed more.

And, you know, so if it was to take me as chairman of the subcommittee to throw that up there instead of Gil, I will do that, but I didn't have any problem with him doing that and I don't think the other two members of the subcommittee do either.

DR. BROMLEY: Well, but Barbara, still, I mean, if you --

MS. STEVENSON: So I should have run to you and -- during lunch and say I want to talk before the issue that I am interested in comes up because I have an alternate idea. That is the problem. You know,
everything -- I have no idea what Gil wants to say, but everything he wants to say can be said in the context of commenting on what the subcommittee did.

DR. BROMLEY: Okay.

MS. STEVENSON: But if we are going to change directions and what it is is to curry your favor for you to recognize us before the Committee, I think that is an inappropriate thing to do.

DR. BROMLEY: That is fine. My thought was to have a discussion of access. So Gil, I would ask you to withdraw your thing from the screen unless we want to have a vote on it and I hope we don't want to have a vote on it, but Gil, could you --

MR. RADONSKI: Yes. You raised this issue using my name talking where I was involved and I just wanted to make my case. If you are going to raise me as an issue, I should have my say. If Barbara don't like it, fine.

DR. BROMLEY: Yes. You see, here we are.

MR. RADONSKI: Whatever way you want it, Chair. You are the Chair.

DR. BROMLEY: I would like to just get some
language on access, but go ahead. Okay. I had a
couple of hands up here. Rod and then John.

DR. FUJITA: Yes, Mr. Chairman.

MR. ZALES: To the point, and I might could
solve this and this gets to be playing under Robert's
Rules and I may be wrong with this, but if we throw up
what the subcommittee did and then have Gil come in
here and make an amendment to the motion or a
substitute or whatever he wants to call it, have
somebody second it and then throw his language up there
and we can discuss that. And if we are going to play
the procedure game that way, then we can do that.

DR. BROMLEY: Yes. Okay. Then Bob, would you
throw your stuff up on the screen.

MR. ZALES: Okay. Do you all have it up?

MS. WENZEL: You know, what, Bob, I don't have
it typed up, but it is in everyone's --

DR. BROMLEY: All right.

MR. ZALES: Okay.

DR. BROMLEY: It is in everyone's packet. And
Barbara, I am sorry for stepping out like that. I am
happy to be called up short.
MS. STEVENSON: Thank you.

DR. BROMLEY: No prejudice, Barbara.

MR. ZALES: Okay. Do you need me to read this for the record, I guess, or --

DR. BROMLEY: Yes, why don't you read it into the record.

MR. ZALES: Okay. The subcommittee was myself and Mark Hixon and Tony.

And the bill we came up with reads, “While the Committee has included advice on the minimum duration and goals for different types of MPA's, it has not developed guidance on a prescriptive definition of the levels of protection or degrees of access and use allowed that should be attributed to a given site. Protection measures, including but not limited to the restriction of access to an MPA, and the timing and type of activities permissible within the MPA must be developed by the entity proposing an MPA through a participatory process where the goals and objectives of the MPA have been established. The level of access shall be determined based on and focusing on achieving the stated objectives of the MPA. The participatory
process will include all interested and affected
parties, and consider all available relevant
information."

So now if Gil wants to add a substitute
motion --

DR. BROMLEY: Well, let's be procedural here.
If this comes from a duly recognized committee, it is
my understanding that it does not require a second. Is
that right, Max and Bonnie?

MR. ZALES: The way I understand, if it is a
committee motion that it stays unless it is amended.

DR. BROMLEY: So it comes to a full body as a
recommendation of the committee. It doesn't not require
a second. This much of Robert I do know.

MR. ZALES: Right.

DR. BROMLEY: And so it is before us for
discussion. Okay. I am going to make a list. Okay.
Gil, Dave. Who else had their hand up. John? Anybody
else have their hand up, please? Tundi. Okay.

MR. RADONSKI: Could you put that up now,
please.
DR. BROMLEY: What, Gil?

MR. RADONSKI: If you read that definition, you will see that it is much like most of what the subcommittee has offered, at least the last I don't know how many lines. The first committee -- the subcommittee's suggestion consists of about four lines of recommendation.

This is a definition written in definition form. And what I propose is to handle this -- how we would get it into the document is on page 3, line 36 of version five, the word “access” appears. At that point, the word “access” will be boldfaced, which would give it the status of having a definition in the glossary. The wording you see on the screen would be the definition that is added to the glossary. We were wondering how we were going to get it into the document. This is my suggestion for dealing with access.

As an editorial comment, access is probably the number one issue, controversial issue of MPA's, and for something to go forward to the secretaries without a definition and stating the complexity of the issue, I think we would fall short of carrying out our mandate.
Thank you.

DR. BROMLEY: Okay. So you are speaking against the motion basically.

MR. RADONSKI: Against.


MR. BENTON: I think I will pass, Mr. Chairman.

DR. BROMLEY: Okay. I have John, Tundi, Bonnie, Dolly, Rod and Mark.

DR. OGDEN: Well, I guess I am sort of somewhat mystified by this. I guess it is, as Gil just explained, the term “access,” which it wasn't clear to me that this word is like so many other words that enters the lexicon and triggers a whole bunch of things that -- many of which I am not aware of, but it would take on the use of that term.

Because I would have thought, on reading our document, that essentially in looking at the language that was proposed by the subcommittee, that in fact, we are so -- we have been driven and so faithful to the idea of local representation and stakeholder driven processes and so on that in fact, this issue was a
non-issue, but I -- at this point, I guess I am -- I
have to defer to -- I think we have touched on a tender
area, words do count. And so I am interested in
listening to what everybody else has to say on it.

DR. BROMLEY: Okay. Tundi.

DR. AGARDY: I wanted to support what -- the
statement that came out of the Committee and I was
looking at it in light of where it might go in the
report and would suggest that it could come, if it were
adopted, in the middle of page 11, line -- after
line 24, which is where we talk about adding existing
sites and new sites to the system.

I -- if I might react to the thing that Gil
put up, I don't see that as being a definition of access
at all. I don't think it is a definition. What it is
is a -- essentially it is like a regulation on what
defines an MPA or how MPA's should be designed. And to
me, the entire discussion isn't about individual MPA's
and how they should be designed and managed and
governed and how they should permit access, but rather
about the system.

So if we are going to define access, I think
we have to recognize that we are talking not about
prescribing how MPA's should be designed and guarantee
access, but rather how MPA's that are considered as part
of the national system, how those access issues might
be addressed in considering them.

DR. BROMLEY: All right. Thank you. Bonnie.

DR. MCCAY: I agree with both Tundi and John.

Gil, that is -- with all respect, that is not a
definition, that is a recommendation of, you know, a
policy statement and I do think that we have already
provided for that in what we have here. I mean, I am
not at all adverse to it. In fact, I would like to see
some language about access, but I think we do need a
definition of what we mean by access and this is not
that. It is something else.

DR. BROMLEY: Good. Thank you. I have Dolly
next and then Rod, Mark and Wally.

DR. GARZA: Thank you, Mr. Chairman. I guess
I was mostly going on a procedural and I think Tundi
brought that up. First we need to say, okay, from the
subcommittee, this is what they are recommending. Do
they have a place on where they were recommending it.
So if that is the place that it is recommending, then we as a committee need to do know that.

What was brought up that is now on the screen shouldn't be up for discussion right now because it hasn't been submitted as a substitute language or anything. And so our first order of discussion is to what the subcommittee brought forward to us. Do we like it. Does it cover everything we think it should and if it doesn't, then we need something like this on the screen either as a substitute or in addition to, but our first order of business, once this is brought forward by the subcommittee, is to speak to what the subcommittee brought to us.

DR. BROMLEY: That is right. That is right.

Rod?

DR. FUJITA: Thank you, Mr. Chairman. I want to speak in support of the proposed language from the subcommittee. I also want to commend them for working hard to come up with this language. I am sure it took a great deal of effort and compromise to move in the direction they did. So I think it is a good faith effort. I think we should adopt it and insert it into
our report.

I agree. It is important for us to address this issue, but there are lengthy sections of the report that do speak to the nature of participatory processes and the devolution of these kinds of policy decisions to the local and regional levels. I don't think there is a need for us to articulate a national policy on access in our report.

And I also agree that what Gil has offered here is not a definition by any means. The word “should” gives it away, you know, as a prescription, and I think we should try to come up with some kind of clear and simple -- a really acceptable definition of access.

DR. BROMLEY: Yes. Let me say that the subcommittee or the committee was -- did not have a position on exactly where it should be inserted, but Tundi, I guess, made the recommendation -- was it you, Tundi?

MR. ZALES: Dan, a point of order I guess.

DR. BROMLEY: Yes.

MR. ZALES: And this goes along with what
Dolly said. In order to keep doing this, and that is why I asked Gil a while ago if he wanted to make this as a substitute, it might be if you are going to do this, go ahead and make this as a substitute motion and we can get a second for it and then we can discuss this and move on with what we are doing if we are going to play the procedural deal here.

MR. RADONSKI: Okay. I so move.

MR. ZALES: I will second it for the purpose of discussion.

DR. BROMLEY: Okay. So it has been moved and seconded that this be substituted for the language that the Bob Zales' committee came forward with. Barbara. Wait a minute. Well -- okay. Sorry. What do I do if I have people who is wanting to speak -- I mean, I guess the amendment takes precedence over those who were in the queue to speak.

DR. PEREYRA: I would like to be requeued.

DR. BROMLEY: You are requeued. Yes. Okay. But Barbara had her hand up and then who?

DR. GARZA: Okay. So the only thing we are speaking to now is whether or not we favor or do not
favor the substitute language.

DR. BROMLEY: That is correct.

DR. GARZA: That is it.

DR. BROMLEY: That is all we are talking about and I am trying to build a new queue and keep track of everything. So Joe, would you mind helping me. I can't do this. I need help with the queue. So you are over in this right-hand column. So I have got Barbara and then who? Tony, Mark, Terry, George and Wally wanted to get in the new queue and Dolly and Dave Benton and Mike Nussman and that leaves three of you that aren't in the queue.

(Laughter.)

DR. BROMLEY: Okay. So are we all right? Is it clear what we are discussing, the amendment only. Thanks, Joe. I am sorry to have immersed you in such secretarial duties, but --

MS. STEVENSON: Okay. Can I speak now?

DR. BROMLEY: All right. Yes, Barbara.

MS. STEVENSON: I have a question and the question is, there must be some very strong reason that Gil had objection to the committee language and I am
not smart enough to figure out what it is. So I would like for him to explain what the significant difference is in his language and why he so much favors it.

DR. BROMLEY: That is fair enough. Am I correct, parliamentarians, that we can ask the mover to elaborate on his reasons?

MR. RADONSKI: Yes. I did state the difference for those that were listening.

DR. BROMLEY: Okay.

MR. RADONSKI: And the first part of the definition --

DR. BROMLEY: Try to do it again with a little more diplomacy, Gil.

(Laughter.)

MR. RADONSKI: It is difficult. The first part of the language of the subcommittee really doesn't pertain to the definition. I said that the last part closely resembles it, but this is the language that I prefer and I think more clearly states it.

DR. BROMLEY: Okay. Thank you.

Tony Chatwin next.

DR. CHATWIN: Thank you, Mr. Chairman. First,
a point of clarification. The subcommittee didn't
arrive to make a decision on a recommendation for a
location of this, but we had talked about, and that is
what the first part of this language -- the language
that was produced by the subcommittee was intended to
sort of be sort of a segue -- the suggestion I had made
is that it would come after we talked about the
duration tables, you know, the length of the
protection, lasting protection.

DR. BROMLEY: Okay. So we have two
recommendations now.

DR. CHATWIN: No. I am just reporting this.

DR. BROMLEY: Oh, I see.

DR. CHATWIN: So people know where that
language came from. We did not come to an agreement
and it doesn't matter. I would argue that the language
that is up on the screen is very different to the
second part of the language that the subcommittee
approved because it talks about establishing --
demonstrating that acts as some associated activities
do not comport before any restrictions can be placed
upon these activities or that access. That is
fundamentally different to the language that was put here.

Here we do recognize that issues of access are defined by right of entry and use, as it refers to activities within an MPA. There is a potential conflict in terms of restricting those -- the use and access and that conflict should be resolved at the site and that we should not, as a group, make any prescriptive recommendations about who should be allowed access and who shouldn't because we don't represent all of the interests that should be represented in such a discussion at the individual site.

So I oppose this language and I urge the Committee to think about the values that we have all embraced over these two years, which is participation and that participation leads to effective -- it leads to stewardship and to more effective MPA's. And this language sort of circumvents all that -- those guiding principles that we have espoused. And so I am opposed to this motion.

DR. BROMLEY: Thank you.
Mark Hixon.

DR. HIXON: Thanks, Mr. Chairman. I also am opposed to this amendment on two reasons. One, I agree that it is not a definition, it is actually a recommendation. The word “access” appears three times in the statement; it never is actually defined. I do believe it would be important to include a definition of access in the final document so that it is clear about what we are all meaning by -- when we say the word “access.”

And secondly, the first statement of this amendment very clearly establishes a burden of proof regarding marine protected areas and is an issue that cuts two ways. Burden of proof language immediately introduces a level of subjectivity into how much proof is enough and I believe the participatory process that we have outlined in our document addresses that issue by bringing the stakeholders together, relying on different sources of knowledge and providing a participatory process where all available relevant information is examined carefully and judgments based on that. So those are my reasonings for opposing this
amendment. Thanks.

DR. BROMLEY: All right. Thank you.

Terry O'Halloran. Let me just run down who
is -- then we have George, Wally, Dave, Mike and Bob
Zales. Terry, go ahead.

MR. O'HALLORAN: Thank you. A couple of
comments that people have made here about a definition
for access. From reading the subcommittee's language on
access, I didn't realize -- I do agree that we needed a
definition of access, but that is not what this seems
to be intended or what this discussion is about.

I am also opposed to this amendment. I like
the last sentence about the public participation and I
think that is what our document talked about and I
think that is what our -- this proposed language on
this that the subcommittee did talks about.

The first sentence, I -- it strikes me as
taking away the participatory discretion of a group of
people coming around and making some decisions based on
this particular site and what they feel is best and
coming to some kind of consensus.

I come from an industry where I would prefer
to have access with tourism. I mean, we were talking about access earlier. I mean, access is important to all of us and it certainly is as important to tourism as it is to fishing; however, I can see certain places and certain times where some form of restricted access might be appropriate. If we have this participatory process and we can agree on it, that it might not be able to be demonstrated.

So I guess if that -- to use Mark's language, that burden of proof that I think takes away some discretion that I think we might be better to leave with the participants in that particular area to come to their own conclusions on. Thank you.

DR. BROMLEY: Thank you.

George?

MR. LAPOINTE: Pass, Mr. Chairman.

DR. BROMLEY: Pass. Wally.

DR. PEREYRA: Thanks, Mr. Chairman. I can support the language that Gil is proposing here from several standpoints. First of all, going back to the original presidential document, the executive order, in here it speaks in the -- in Section 1, in the purpose,
it speaks quite strongly to the sustainable use as
being one of the cornerstones of this executive order
and that being the case, access, then, sort of becomes
a vehicle by which one gains sustainable use or creates
sustainable use.

So I think it is important that access be viewed from that standpoint. In this regard, I do think I agree with others that we definitely need to have a definition of access in here just as we have other important concepts that are put forward. Lasting protection, so on and so forth. So I think that that is probably something we can all come to agreement on.

We need to come up with a definition of access that we can agree to.

And the last point I would like to make regarding my support for this is we have sort of a foundational legal doctrine in this country that you -- that one is innocent until proven guilty. This, I think, embraces that. In other words, someone is not going to be denied access. Someone is not going to be judged guilty, in a broad context, until such time as they have proven to, in fact, be guilty.
So this would embrace access as being sort of -- I wouldn't call it a preemptive right, but certainly a right for citizens to the marine environment. I think it is important that we recognize that, that they aren't going to be forestalled from doing what they would normally be doing in the environment until such time as they can be shown that in fact it is not consistent with good management or sustainable use.

DR. BROMLEY: Okay. All right. Dave, Mike, Bob Zales and Bonnie and now Bob Bendick and Gil. Okay. And then I would sort of like to cut off debate if we can.

MR. BENTON: Thank you, Mr. Chairman. This is sort of a question for Gil. If I understand it correctly, you did introduce this as a definition still, correct?

MR. RADONSKI: Yes.

MR. BENTON: All right. And we have -- but we have heard a number of folks around say that in a way, that is an action item not a definition and maybe we need a definition. And if that is the case, then, I
would like you to sort of think about this for a little bit. Perhaps we should very subtly change that so it becomes an objective of the national system as an action and perhaps, then, try and develop a definition of access that would go in the definitional section that would be something along the lines of the ability to enter an MPA for, you know, in order to use the resources for cultural, personal, recreational commercial purposes or something like that.

I just wonder if you would entertain, instead of that being a definition, putting that in sort of in the objective section or somewhere where it becomes an actual requirement or a criteria. It would require changing, I think, just about two words.

MR. RADONSKI: May I respond, Chair?

DR. BROMLEY: May he respond? I am so gun shy now I don’t know. Yes, you may respond.

MR. RADONSKI: Well, I think that is a very good point and I would accept that. Now we heard a lot of talk against this around the table based on individual MPA’s. We are talking about a national system and what qualities an MPA should have to get
into a national system. So all this discussion about we have got to leave it up to the local people, this is an ocean resource that belongs to all the citizens of the United States, not to a few locals. So that -- I can't buy off on that idea at all.

I do like David's idea of replacing it because I would -- before this is all over, I am going to seek higher elevation of discussion of the term “access” in this report. So this would go a long way towards meeting some of my needs there. Thank you.

DR. BROMLEY: Is this a procedural thing, Dolly? Please do.

DR. GARZA: So in terms of procedure, the easiest thing to do would be to vote it down and then request that it be placed in the list of objectives and then vote on the language from the subcommittee. To reamend it, to place it somewhere else, would be more difficult.

DR. BROMLEY: Yes. Okay. That is right. I mean, can I ask him -- can I ask Gil if he would withdraw his -- I mean, or just vote it down so we can get on, Gil. I mean, why have all these other people
speak against it.

MR. RADONSKI: I can withdraw it anytime I like. Yes. I would favor the withdrawal. Rather than going to another vote and put it somewhere else, I would withdraw it on the basis that we would handle it as David outlined.

DR. BROMLEY: Okay.

DR. GARZA: So is that okay with the second, Bob?

MR. ZALES: Yes.

DR. BROMLEY: So the motion before you is withdrawn.

DR. GARZA: So then what we have before us is the language from the subcommittee.

DR. BROMLEY: That is right. We are back to the original language.

MR. BENTON: So Gil, do you want to make another motion?

MR. RADONSKI: Well, I essentially did. I would move that it be put, as you recommended, in the -- what section was it again?

MR. BENTON: Objectives.
MR. RADONSKI: Objectives.

DR. BROMLEY: Wait a minute. Where are we?

We have a plea -- we have a need for a definition of what access is and then we have the language of the Zales committee which talks about how it is FAC regards the issue of access, which will be defined in the glossary. Are those the two issues before us? Is that right?

MR. NUSSMAN: Say that one more time.

DR. BROMLEY: Pardon me?

MR. NUSSMAN: Say that one more time.

DR. BROMLEY: We have a request, a plea, for a definition of access and I think the way Dave Benton put it was access and use or what I think Gil talked about utilization, right? Getting into a piece of real estate area and then what may one do while they are there, right? That is a definitional need I think. And then we are back to the way the FAC regards that whole issue and the participatory process.

DR. GARZA: Okay. What I saw was three things.

DR. BROMLEY: Three things.
DR. GARZA: One was what the subcommittee has
given us.

DR. BROMLEY: Yes.

DR. GARZA: Okay. Two is placing what Gil has
suggested as an objective and three was still a
definition of access. Number two and number three are
not the same I don't think.

DR. BROMLEY: Okay.

DR. GARZA: At least people have argued that.

DR. BROMLEY: Okay.

DR. GARZA: And so in terms of Gil's motion, I
would still request that you make it after we make a
decision on the subcommittee's report because that is
what is before us. So we would vote on that and then
we would bring up the issue of this new potential
objective and then also the issue of access.

DR. BROMLEY: The definition of it.

DR. GARZA: That is the process I would seek.

DR. BROMLEY: Yes, I like that.

MR. PETERSON: Mr. Chairman?

DR. BROMLEY: Yes, please. Max is our second
parliamentarian.
MR. PETERSON: Yes, there is one other approach that could be used and I think might be more fruitful and that would be simply to refer this back to the group that has been working on it based on this discussion, and I know Mark has looked at a definition of access and so on, and let them come back after they have looked at this some more because I do think there needs to be a definition of access.

I think there needs to be an objective that includes -- I think we have heard mention to that. I think they can solve that better than we can as a committee of 33. So I would move that we refer this back to the committee.

DR. BROMLEY: Okay. Dolly, go ahead.

DR. GARZA: But I think we could still vote on what we have in front of us from the subcommittee as before us and the other two could go back to the committee.

MR. PETERSON: Not if there is a motion to refer it back to the committee. You can't vote on that motion.

DR. GARZA: So did you make that motion?
MR. PETERSON: I did. It has not yet been seconded, but it is not a debatable motion.

MR. BENTON: Did you just make it?

MR. PETERSON: Yes, I made it.

MR. BENTON: I will second it.

MR. PETERSON: I just think we won't make much progress as a committee as a whole on this.

DR. BROMLEY: If the motion to send it back to the committee is not debatable, Barbara, why is your hand up with all due respect?

MS. STEVENSON: Clarification is appropriate.

DR. BROMLEY: Right.

MS. STEVENSON: I want to know what is being sent back. What are we asking the committee and what product we want the committee to come back --

DR. BROMLEY: That is right. And when we want it to come back.

MS. STEVENSON: And when we want -- and is it appropriate -- the definition of access is important to a broader group than the original charge and is it appropriate to appoint a couple of other committee -- larger committee members to sit in on that discussion?
DR. BROMLEY: If I may, just procedurally, this is the concern I have. We need, pretty soon, to start going around the room and finding out how people feel about the document and if this thing is off being discussed in committee, I don't know where we are going to be procedurally. So that is just an editorial comment. Others who wish clarification. Okay.

George.

MR. LAPOINTE: I think you can rule me out of order if you want. I think it is important for the subcommittee, if they do this work, to provide -- you know, some people have said it should be in the objectives. I don't agree. And so they should discuss other spots in the document it would be appropriate. The objective contains sustainable use. That implies access. And so I don't think it should be in the objectives. So, you know, that has got to be part of that discussion as well.

DR. BROMLEY: Yes.

MR. PETERSON: Mr. Chairman.

DR. BROMLEY: Yes.

MR. PETERSON: I think just to clarify, it is
perfectly within your prerogative to add some people to that committee that have expressed interest. It is perfectly appropriate for them to come back and to recommend whatever they want to.

DR. BROMLEY: Yes.

MR. PETERSON: They are not stuck with the conversations that have been held.

DR. BROMLEY: Yes.

MR. PETERSON: And I would clarify the motion to say that I would ask that they bring back a proposal by tomorrow morning.

DR. BROMLEY: By tomorrow morning. Tony?

DR. CHATWIN: Mr. Chairman, you know, the subcommittee and Gil have debated this issue back and forth extensively. Now there is a proposal to expand that subcommittee, which is probably a good idea, but I don't see that the differences between that language and the language that we as a subcommittee agreed to are reconcilable.

I think there are some key terms that are not going to -- I mean, my understanding is that folks who support this language won't support it without those
words and folks that don't support that language won't support that with the words.

MR. BENTON: Mr. Chairman, it is time for the question. We are debating the motion.

DR. BROMLEY: I am sorry, what?

MR. BENTON: I said we are debating the motion.

DR. BROMLEY: We are debating the motion. I know. I was about to pull the string on this or the cord or whatever. Okay. It is non-debatable. We vote on it. What are we voting on? We are voting on this group being asked to go back, to report by tomorrow morning, with the possibility of adding people to the subcommittee. Is that right?

DR. AGARDY: I am sorry. I am completely ignorant on these matters, but if we were to vote and the vote was no, then what happens?

DR. BROMLEY: Right. Then we go back and discuss the subcommittee report before you.

DR. AGARDY: Okay. All right. Thank you.

DR. BROMLEY: Am I -- is that correct, Dolly?

DR. GARZA: Yes.
DR. BROMLEY: Okay. So a yes vote will activate what I have just said. A no vote will return us back to the language we have before us. Last clarifying questions. Okay. All in favor of the motion say aye.

(Chorus of ayes.)

DR. BROMLEY: Opposed.

(Chorus of noes.)

DR. BROMLEY: I am going to ask for a show of hands and I need someone to count, Lauren. All in favor, raise your hand.

MS. WENZEL: Raise them high.

DR. BROMLEY: Raise them high and only once.

MS. WENZEL: 10.

DR. BROMLEY: 10. All opposed, raise your hand.

MS. WENZEL: 13.

DR. BROMLEY: Motion fails, 13 to 10 or 10 to 13. It fails. Okay. We are back to the original language right here. So we have a queue, but maybe we need to start a new queue. We have several queues. Bob Bendick is in. Who else would like to speak in
favor or against this motion? Bob Zales, Mike Nussman, Barbara Stevenson, David Benton. Okay. Bob.

MR. BENDICK: Yes. Now I have two things. One, I am not sure I understood exactly what David was proposing, but is what you were proposing to say that access for appropriate uses should be a goal of a national system of MPA's, but not to say that any particular use or access should have a privileged standing in the process? Is that what you were trying to say?

MR. BENTON: Almost. Mr. Chairman, can I respond?

DR. BROMLEY: Yes. Please. Please do.

MR. BENTON: I just wanted to make sure I had the permission of the Chair to speak.

DR. BROMLEY: Yes. Well, take my word for it.

MR. BENTON: What I was getting at was listening to the discussion about the language that Gil had and I think it is also germane to this language here that this is not -- that is before us, because the committee language is back before us as I recall.

DR. BROMLEY: That is correct.
MR. BENTON: Okay. Those are not definitions as we have discussed. So we needed a definition of -- in my time to think sort of quickly how to get past the issue, it seemed to me that what you wanted to do is, as an objective for the national system, put as one of its objectives to allow access into the MPA's unless that access, for whatever purpose, was going to be detrimental to the purpose of the MPA.

I had not made up my mind really between the language that the committee came up with versus the language Gil had. I could support either one. I was going to support Gil's language. To me, it is sort of six to one, half a dozen to the other.

DR. BROMLEY: Okay.

MR. BENTON: But I think it needed -- you know, it needs to be either there or in one of the purposes parts of when you do the nominations, that it was not a definition. So I was making it an action item and I think that this access issue ties in quite closely with issues that we heard this morning from the panel about having to identify a problem and a purpose, having baseline kinds of information, not the
scientifically defined baseline acts, but just current
conditions and something to judge against and being
able to sell this to the public.

And I think that is what is going on here and
I think that there is some folks burying their heads in
the sand by not listening closely to some folks --
other folks about what is important to them and how to
get a program and a system in place that people can buy
into.

DR. BROMLEY:  Okay.

MR. BENTON:  That is what I was trying to go
by.

DR. BROMLEY:  Bob Zales.  Yes, Bob, go ahead.

Sorry.

MR. BENDICK:  Well, I am not sure I fully
understand the answer, but I -- you know, I think there
is a difference between an expressing an objective to
have appropriate access to an MPA and a sort of
prerequisite here and I would maintain that on page 11,
number 3, we actually have a test.  People are talking
about a test and hurdles and proof and that sort of
thing.
And we actually have included a systematic process for setting out appropriate uses of identifying what is the threat, what are the strategies, what is necessary to protect against the threat. And I think that is already built into our process. It establishes a hurdle and I am not sure why that doesn't apply universally to a number of the things that we are doing.

It seems to me that the bottom line is that it serves the purpose that is trying to be achieved here creating an objective framework for the restrictions or regulations or procedures of the marine protected area. Again, I wouldn't be adverse to a goal that suggested what we might try to achieve, but I think the standards are already in here and I -- given that, I think the recommendation of the committee, of the subcommittee, reinforces what is on page 11, paragraph 3.

DR. BROMLEY: Okay. Thank you.

Bob Zales.

MR. ZALES: Yes, and I apologize for the subcommittee. We didn't identify where to put this, but Tony was correct and then I guess one reason why I
didn't bring it up again, I just kind of assumed that that was a good place to put it. That was early on in our discussion it was there. But in looking this, and I have read this several times and I need clarification on this. On page 3, number 5, where it says, “Protecting cultural resources and proving appropriate,” is “proving” not supposed to be “providing?”

MS. WENZEL: Yes.

MR. ZALES: Okay. So if that is the case, then I would argue that this thing about access is already under a goal and objective and basically what the subcommittee did was kind of clarify our intent on what access may or may not be. And I would argue, and I apologize to the subcommittee because I didn't send it to them, but I did send it to Gil that we should probably come up with an appropriate definition of access because what the subcommittee did is not a definition of access, but it includes access.

The other thing I would like to point out is that I think it was clear, it has been clear all along to me, but especially today with the panel that we heard from this morning, access is not just a term for
recreational fishing. Access is a term for everybody, whether you are commercial, a diver or whether you just want to go out there and look or whatever you want to do.

And it is clear to me, from reading the objectives, that -- on number 5, that we are going to provide appropriate -- or we recommend providing appropriate access for enjoyment and sustainable use of cultural resources.

So what we did with the subcommittee, in my mind anyway, pretty well defines what we are going to do. And all deference to Gil where we talk about it being on a local level, and I still -- and I would argue this, that MPA's are going to be created on a local level, I am still -- I am not going to be supportive and I still don't see where we are going to have one central entity in the United States that is going to say we are going to create an MPA wherever.

I think that has got to be up to the local jurisdiction of the various councils at a minimum and maybe even more so in local and state things. But, you know, I would offer, maybe, refining this language a
little bit, but, you know, clearly put it in connection with objective number 5 on page 3.

DR. BROMLEY: Okay. Good. Mike Nussman.

MR. NUSSMAN: Thank you, Bob. I have actually forgot what I am supposed to be talking about. I will go ahead and talk anyway since it took a long time to get here. My comments --

DR. BROMLEY: Go ahead, Mike. Sorry.

MR. NUSSMAN: My comments, I think, are focused on where I think we are with regard to the issue of access, at least my perception of access. First, I would say to my good friend Bob Zales, I am not sure I can include -- I am not sure that cultural resources captures everything that Bob has implied that it would and I wouldn't be comfortable with that definition in -- with regard to access.

With that said, I would say I think the issue on access comes -- as Gil raised it back some weeks or however long, a month ago, I think it comes from a reading of the entire document where we talk about many of the values of the national system, the many things we are trying to promote and achieve in this system and
in large measure, not reading anything about access and not having a comfort level by many of us on what is the access threshold.

Now there are lots of policy statements in here, and clearly it is within this committee's purview and authority to make a statement on that and it may choose not to, but in effect when we are talking about -- when we, as a committee or the Congress or the secretaries are talking about putting forward closed areas, I mean, the opposite of the closed areas or the issue that becomes is access. Okay. Well, if that means values of these closed areas, well, what is the counterweight there.

So I guess part of what I am hearing is okay, we talked a lot about the value of the closed areas, but the value of the access is something I have not spoken to. Now we have surrounded it all with a lot of public process, which goes part of the way towards getting the importance of that access -- it allows the public to make that argument that their access is important, but it is not a policy statement from all of us about what we think about that access.
So that is my perception of what the debate is about right here. Whether it is a definition or a place or a goal or an objective, I think there is a degree of discomfort with the -- we have addressed the one side; we have not heard about the other side. So at any rate, I will leave that there. I am not -- I may have an opportunity to speak later on what I think and what I don't think, but that is at least my observation of what we are talking about right now.

DR. BROMLEY: Yes. Dolly, am I allowed to make a point of order, a point of information, observation here?

DR. GARZA: It is your job.

DR. BROMLEY: My job. The first sentence of the proposed language, this is one sort, is it not, it says what we haven't done.

DR. GARZA: Sort of background.

DR. BROMLEY: It is background. Fair enough? Sentence one is background. Why the committee, blah, blah, blah. Okay? The second sentence, "Protection measures, including but not limited to" in a sense speaks to process. Is that right? And some people
have said we have lots of procedural stuff in this document. So we have one sentence about background, we have a second sentence about procedure it seems to me.

And then we have a third sentence, which is more prescriptive, right?

It is incomplete, I just noticed, Bob. You guys use access and use access and utilization. You get to your last sentence and you say access, you say nothing about use or utilization. So there is, I think, something left out in your third sentence. But the third sentence is more prescriptive I believe. Is that right? So I will just leave it.

Okay. Wally. Oh, Tony. I am sorry, Tony. You act like -- since you are on the subcommittee, yes. Well, you are up next. Let's let Wally go and then you speak.

DR. CHATWIN: Yes.

DR. BROMLEY: I am sorry. Barbara.

MS. STEVENSON: No-no. I just wanted to be sure I am on the list.

DR. BROMLEY: You are on the list.

MS. STEVENSON: I will gladly speak after
Tundi.

DR. BROMLEY: Yes. All right. Where are we. Wally and then Barbara. Okay. Wally, I am sorry.

DR. PEREYRA: In an effort to move the debate along, I would like to offer a motion on a definition of access. So we would have a definition of -- are we still on this motion here?

DR. BROMLEY: We are on the --

DR. PEREYRA: This is considered to be a definition of access?

DR. BROMLEY: No. We are on this language.

DR. PEREYRA: All right.

DR. BROMLEY: If you have a definition of access, it would be smoother if you brought it in later I think.

DR. PEREYRA: I believe so. Yes. Yes. I will --

DR. BROMLEY: Okay.

DR. PEREYRA: I will end with --

DR. BROMLEY: Okay. Now Barbara.

MS. STEVENSON: My concerns about access, which obviously I have serious concerns and serious
concerns about the definition, because I don't want to
tell you how many times I have been told, “Well, you
still have access. Go get yourself a rod and reel.”
So access does need help to be defined.

But under the objectives, number 4, says,
“Providing the ecologically and economically
sustainable use of marine resources for the benefit of
individuals, commercial enterprises, communities and
the Nation.” I thought that covered me. So I was
happy not to say a word about access.

This language from the subcommittee I have no
problem with. It is okay language. I think that if it
makes anyone any more comfortable to have it in, it is
most likely better on page 11, which is like things
that you would -- should have been nominated for the
national system.

DR. BROMLEY: By the way, if I may, that spot
has been recommended by someone else.

MS. STEVENSON: That is Tundi's.

DR. BROMLEY: That is where she thought it
should go.

MS. STEVENSON: Right. That is her
recommended spot. She wasn't sitting there so I forgot where she was. The third point is that if we put this in, then we do have to define access.

DR. BROMLEY: Okay. Now let me tell you who is up. Tony, Mark, Dave Benton, John Osgood, Bonnie, Dolly, Tony Chatwin, Steve and George. And it is 2:15. Tony.

DR. CHATWIN: Thank you, Mr. Chairman. Barbara pointed out the language that I was going to bring up. You know, number 4 of the objectives talks about sustainable use and if you go to the glossary, we have defined the definition for sustainable use, which, in my understanding of the issues that are being -- of the concerns that are being raised, this definition should address concerns about what we mean about, you know, use.

DR. BROMLEY: This language.

DR. CHATWIN: No. What we are really --

DR. BROMLEY: We have been here already.

DR. CHATWIN: This is independent. This is what we have gotten.

DR. BROMLEY: That is right.
DR. CHATWIN: And I wanted to bring that to people's attention because we have a definition of use.

DR. BROMLEY: Sustainable use.

DR. CHATWIN: Now access. I think if we have to define it, we should just define it as right of entry into an MPA. Period. I make that as a motion.

DR. BROMLEY: Can you not do that right now?

DR. CHATWIN: Just a mean a friendly correction here, privilege of entry.

DR. BROMLEY: Well, let's -- okay. That is a wonderful idea. Can you hold it in your pocket for a while, Tony, I am sorry.

DR. CHATWIN: Yes. I am happy to hold it.


DR. HIXON: I have been listening intently to each person's comments and I am trying to come up with some common ground here and I have an idea working with Max. On page 3, objective number 4, I do hear the idea that access is an important issue to address under objectives. I hear that.

So what Max and I have come up with -- correct me if I am wrong -- is on page 3, objective number 4,
which is a broad-sweeping point -- and the reason we
are not agreeing with number 5 is number 5 refers
solely to cultural resources as Mike Nussman pointed
out. Number 4 addresses all marine resources. And we
suggest that we insert a phrase at the beginning to
that statement that says --

DR. BROMLEY: At the beginning of it.

DR. HIXON: The beginning of number 4.

DR. BROMLEY: Okay.

DR. HIXON: And the phrase is, “Providing
appropriate access to and” and then continue as it did
before. So it would read, “Providing appropriate
access to and promoting the ecologically and
economically sustainable use of,” et cetera and then
have a definition in the glossary of access. Now that
would just broach the issue of access under the
objectives. It is independent of this subcommittee
wording, which I agree should be inserted someplace as
well. So I am basically reflecting what Barbara just
proposed.

DR. BROMLEY: We read this as a comment.

DR. HIXON: Yes.
DR. BROMLEY: Urging the defeat of the language that is before us with the idea that then you will come forward with new language?

DR. HIXON: I am not urging defeat of the language. I thought we were done with that.

DR. BROMLEY: I mean, we are debating this.

DR. HIXON: Yes. I have urged to make cleaner --

DR. BROMLEY: If you advocate the defeat of all of this and then once it is defeated, you may offer your suggestion.

MR. LAPOINTE: How about a substitute amendment.

DR. HIXON: Well, may I clarify?

DR. BROMLEY: Yes.

DR. HIXON: My comments had to do with inserting this paragraph somewhere in the document that has been proposed, but then also in making sure that access is mentioned explicitly in the objectives.

DR. BROMLEY: Okay. I misunderstood you.

MR. PETERSON: I will second it.

DR. HIXON: That would be an amendment that
Max seconds.

MR. PETERSON: I will second it and I will also point out that we would put in boldface “sustainable use” on that objective to point out it is a defined term on page 4.

DR. BROMLEY: I am going to consult my parliamentarian. I would prefer that we proceed with the discussion of the motion. I think, Dolly, please.

DR. GARZA: Right, because we have asked other members to not bring these amendments forward, such as the definition of access, to bring them forward after. Otherwise, we are not -- we didn't give them the opportunity. So vote specifically to the language. We are looking at page 11 is what it sounds like. Then follow up, add it to number 4, define access, blah, blah, blah.

MR. PETERSON: You cannot require somebody to delay a motion. You can suggest it, but you can't require it. Neither can the Chair. But anyway, if you want us to delay it, I think Mark and I would be willing to do so, but we are not clear if you adopt this other, how this -- what he is talking about fits
into the system.

MR. LAPOINTE: Mr. Chairman, I would like to offer a substitute that embodies the language on page 3, objective 4, and that language reads -- help me out because it is your language. My motion is going to have three parts. I will explain it first. One is the change to objective 4 on page 3. The second is the acceptance of the language that the subcommittee came up with and the third is its inclusion on page 11. That is a three-part motion to try to deal with all the three together.

MR. BENTON: Second.

MR. LAPOINTE: Because I think it gives me comfort to know what the package deal looks like.

MR. BENTON: And I will second it.

DR. BROMLEY: And moved and seconded. Okay. So we have now a precedential motion, which says to pick up the language --

MR. LAPOINTE: To pick up the language and can you -- what is the exact wording. I will put in a motion.

MR. PETERSON: “Providing appropriate access
to and promoting the ecologically and economically" --

DR. BROMLEY: So it would be on page 3, line 33, item 4, there would be an insertion about --

MR. LAPOINTE: "Providing appropriate access to and" --

DR. BROMLEY: "Providing appropriate access to." Four words.

MR. LAPOINTE: And.

MR. PETERSON: And.

DR. BROMLEY: Five words. Okay.

MR. LAPOINTE: Secondly, to accept the language of the subcommittee and insert the language of the subcommittee on page 11 under --


MR. LAPOINTE: Sure.

DR. BROMLEY: That was Tundi's point I believe. And the third piece of this, George?

MR. LAPOINTE: That was the three.

DR. BROMLEY: That is the three.

MR. LAPOINTE: The language on page 4, the acceptance of the language and its placement on page 11. I am trying to deal with all three of them.
DR. BROMLEY: And that has been seconded, has it?

DR. GARZA: Yes.

DR. BROMLEY: Okay. So we have before us -- well, so these people are -- we are starting a new list. Bob Zales' hand has been up.

MR. ZALES: No.

DR. BROMLEY: No? Okay. All right. Dave Benton, do you wish to speak on the amendment? No. Is this right now, we ask -- John Ogden, do you wish to speak to the amendment.

DR. OGDEN: No.

DR. BROMLEY: Dolly?

DR. GARZA: Mr. Chairman, I did want to speak initially to the subcommittee's report, which I fully supported, but I also do support the amendment. I think it covers a lot of ground. And then following that, it is my understanding we would look at the definition of access.

DR. BROMLEY: That is my understanding too.

DR. GARZA: I would hope for a speedy conclusion.
DR. BROMLEY: It is a sense of the Committee that we are going to then turn to access. Is that right, George?

MR. LAPOINTE: Sure. Right.


DR. MURRAY: Just a quick question. Where on page 11? What number?

DR. BROMLEY: Page 11, line 24.


DR. BROMLEY: I believe so. Tundi, is that your idea, which is the discussion of nominating sites before the bullets.

MR. LAPOINTE: Figuratively speaking about bullets of course.

DR. BROMLEY: Bullets. Yes. Okay. Rod.

DR. FUJITA: Thank you, Mr. Chairman. I object to the first part of the amendment. I don't think access to resources within marine protected areas is a primary objective of the National system of MPA's. I think access to sustainable resources, both biological and cultural resources, is certainly a
primary objective of national, overarching marine management policy, but access has two components at least, right? One is right of entry to areas and another is to have enough fish around to access.

I think by what is meant by having sustainable use as sort of one of the benefits of MPA's doesn't imply that we will go creating an MPA so that we can build up resources so that we can access those resources. It is premised on the idea that, you know, access, on a continuing basis to marine resources, is going to depend on protecting some of those resources in some places at some times. So I really -- I can't accept putting access language like that in the list of primary objectives of this National MPA system.

DR. BROMLEY: Bob Zales. Did you want to get on the list, George?

MR. LAPOINTE: No, I think not.

DR. BROMLEY: Okay. Bob Zales.

MR. ZALES: Yes. I can support this motion, but I would like to see if George and his second would -- because I had a little bit of a problem with this before we got into anything with number 4 because
it doesn't list anything about recreational fisheries or
recreational fishermen. It says, “Individuals,
commercial enterprises, communities and the Nation.”

    Now granted a recreational fisherman could be
considered part of some of those groups, but it is not
specifically pointed out and it also doesn't refer to
divers or any of those people. So, you know, I would
like to have some kind of language maybe behind
commercial. Put “commercial and recreational
enterprises,” which would probably include, in my mind
anyway, fishermen, divers, sightseers, whatever.

    DR. BROMLEY: Okay. Next, Terry.

    MR. LAPOINTE: Are you making that as a --

    MR. ZALES: Yes. I am asking if that could be
like a friendly amendment and also to that point, I
believe this is more of a substitute motion than it is
an amendment to the motion. I think the whole thing
has been effectively changed. So it is a substitute
motion.

    MR. LAPOINTE: I offered it as a substitute.

    MR. ZALES: It is a substitute?

    MR. LAPOINTE: Okay.
MR. ZALES:  Okay.  And but you would be willing to consider to add language in there for recreational participants?

MR. LAPOINTE:  Conceptually I don't, but procedurally I do mind because I think it will raise a whole other host of issues.  If I look at recreational fishing, as I understand it, if I am fishing by myself, I am an individual, and if I am fishing for hire, I am a commercial interest in the recreational sector.  So I think it is covered.

DR. BROMLEY:  Okay.  Let's -- Terry.

MR. O'HALLORAN:  Thank you.

DR. BROMLEY:  Bob, it doesn't mean you can't come back.  Okay.  I mean, I just --

MR. ZALES:  Oh, I understand.

DR. BROMLEY:  Yes.

MR. O'HALLORAN:  I support the substitute amendment and in the interest of -- we are all almost to 2:30 and we have an awful lot of things to discuss and I don't know what the procedure is here, but I would like to call the question if that is possible.

DR. BROMLEY:  Well, we have two or three more
people on the list and we can short-circuit it, but I
would certainly like to let -- I appreciate it, Terry.
Thank you. I would rather have somebody out there
pushing us forward than me all the time, but I do feel
that I -- I am not forced to stop the debate, am I? Am
I required to stop?

MR. PETERSON: No.

DR. BROMLEY: I am not required.

MR. PETERSON: No. That is a non-debatable
motion, but it is actually a motion to limit debate,
which requires a two-thirds majority to cut off debate.

DR. BROMLEY: Okay.

MR. PETERSON: But it goes to immediate vote.

DR. BROMLEY: Yes. I would like to hear from
Jim Ray and John Halsey and Wally if I may. We have to
go to vote?

MR. PETERSON: You have to go to vote.

(Laughter.)

DR. BROMLEY: All right. We are voting on
cutting off debate. Am I correct?

DR. GARZA: Right.
DR. BROMLEY: Keep going? Were they pulling my leg.

DR. GARZA: The purpose of a call for question is to see if anybody else has any other questions in regard to the motion before they are prepared to vote.

DR. BROMLEY: That is my understanding.

DR. GARZA: If someone still has a question, then they have the -- they should have the opportunity to either make their position known or ask for questions so that they can make a position.

MR. PETERSON: I am sorry to disagree with my good friend the parliamentarian, but a motion -- a call for the question is a call to limit debate, which requires a vote and it requires a two-thirds majority because you are cutting off debate if they vote to do that. You cannot allow any discussion or any other things. Now since we are a participatory group, maybe we won't agree to that so these people can be heard. But just to call for the question does not limit debate.

DR. BROMLEY: Dolly here is our official parliamentarian. Dolly, what shall I do?
DR. GARZA: Well, the easiest would be was there was no second on that. And if the intent is for full participation, as we are hoping for with the MPA, then we would allow those people that are still on the list who wish to state a position to state it.

MR. O'HALLORAN: Mr. Chair, hearing this, I will withdraw that provided that we can move along.

DR. BROMLEY: Yes.

MR. O'HALLORAN: Because we have had a lot of debate.

DR. BROMLEY: Yes.

MR. O'HALLORAN: We have got a lot more things to debate.

DR. BROMLEY: Terry, I have an idea. In the future, you know, why don't you just say, "When can we move the hell along rather than" --

(Laughter.)

MR. O'HALLORAN: I thought that is what I said.

DR. BROMLEY: Okay. But be careful of what we call things, Terry.

Jim Ray.
DR. RAY: I just wanted to make a quick point. When it comes to access, we are not just talking about the removal of fishery resources, et cetera. It is mineral resources. Access being a lot of things and it could cause a question of just being sure that you have a definition that is inclusive with access.

DR. BROMLEY: That is right. And this is the deficiency that I find in the language here that is the last sentence doesn't talk about uses. Okay. John Halsey.

DR. HALSEY: Okay. Certainly we have gone past the point of trying to ride this in under cultural resources. Certainly something, though, that we -- that does keep getting lost is that we are dealing, in the case, particularly of historic, cultural resources, that they are non-renewable, they are non-replaceable. You can't build a new environment in which to sink an 1880 schooner.

So we have got what we have got and this language that is already in under number 5 essentially reflects what Michigan did when they created marine protected areas directed specifically at cultural
resources. In other words, shipwrecks. It was intended, in that case, to allow access to these things in a non-consumptive way so that people could go down, experience the mystery of the wrecks, take pictures, draw them, whatever they wanted to do, without adversely affecting them.

So that was what we have lived with for many years as the embodiment of sustainable use. Leave these things alone and they can last indefinitely. And I think that that is something we need to consider when we think about sustainable use or particularly with non-renewable resources.

DR. BROMLEY: Very good.

Wally.

DR. PEREYRA: Yes, Mr. Chairman. I am pleased that number 4 on page 3 is there because that was lifted from my comments that I made back on the 13th of April because number 5 was the old number 4. And the reason that I provided this particular item was that when I read number presently number 5, it spoke to cultural resources having access, but there is no mention at all of recreational or commercial or other
marine uses. So that is why that was put there. So the sustainable use, when I wrote this, this really meant to cover all the other extractive uses, including recreational.

DR. BROMLEY: Very good. Thank you.

Bonnie and then we are going to move the hell on or try to.

DR. MCCAY: Just one point, Mr. Chairman, you mentioned the concern about access not perhaps being inclusive and not because use is another issue. And I, too, have been thinking about definitional issues and I have been on the web while we were speaking and looked at various definitions and so forth and use is incorporated into almost all the definitions.

For example, the right and ability to enter, the right and ability to obtain or make use of or take advantage of something. And that is a fairly typical definition. So whereas you may want to add use from time to time, I think that in our definition, whatever we choose, we can reflect these common English uses of the term.

DR. BROMLEY: Thank you. Okay. We have,
therefore, a compound motion, George.

MR. LAPOINTE: A compound substitute motion.

DR. BROMLEY: A compound substitute motion.

MR. LAPOINTE: Mr. Chairman, yes.

DR. BROMLEY: George, could you refresh our memory exactly what we have been discussing for the last 30 minutes because we are going to have a vote and I want everyone to be clear on what we are voting on.

MR. LAPOINTE: The motion we are voting on is to add, on page 3, line 33 -- unfortunately, I have go for bifocals now.

DR. BROMLEY: Yes.

MR. LAPOINTE: “Providing appropriate access to and.” So the inclusion of those words on page 3. And then on page 11, the inclusion of the language that was ably brought to us by our subcommittee on the page that is titled, “Proposed language on access.”

DR. BROMLEY: Yes.

MR. LAPOINTE: Those are the three parts of that substitute motion.

DR. BROMLEY: Okay. Is everyone clear? All right. Are you ready to vote on the substitute motion?
PARTICIPANT: Yes.

DR. BROMLEY: All in favor say aye.

(Chorus of ayes.)

DR. BROMLEY: Opposed?

(Chorus of noes.)

DR. BROMLEY: Okay. The ayes have it. Okay.

So we have adopted this. Do we need a subcommittee --

DR. GARZA: Do we need a break?

DR. BROMLEY: Do we need a break? I don't know. It is 3:30. It is only 2:30. No. We don't need a break. Yes, Bob?

MR. ZALES: I am going to try one more time. It may not go anywhere, but I am going to make the motion to add, to number 4 on page 3, recreational in there somewhere because as Wally has stated, that was kind of his intent. George could agree in one way and not another. And I still, even though an individual could be considered recreational, I would be a lot more comfortable with it defined.

MR. BENTON: Where are you going to put it?

MR. ZALES: You could either -- I would just make it real simple and put after commercial, “and
recreational enterprises" because I consider them one and the same.

MR. BENTON: Second.

MR. ZALES: So I have a second now so now we can debate it. And if you would like to hear more, it is just basically I have had real problems with language before being interpreted by people in the future and somewhere in the future, I see that something could be lost and I don't know that it will.

I think you could reasonably argue, especially if you looked at the record that we have, that recreational was intended to be within number 4, but if it is specifically there written out, it is easier to do and you don't have to look up the record.

DR. BROMLEY: I am sorry. Let me make sure I understand this. You want recreational enterprises entered in here?

MR. PETERSON: Commercial and recreational.

DR. BROMLEY: Commercial and recreational enterprises. Is that what you would like, Bob, is that your motion?

MR. ZALES: That is what I would like because
it is -- I have probably changed over the years a little bit, but maybe not.

DR. BROMLEY: Just yes or no right now.

MR. ZALES: Recreation because fishing is, by a lot of people, considered a sport. I look at it more as a pretty important business to this country.

DR. BROMLEY: So if I go fishing --

MR. ZALES: An enterprise kind of encompasses that. It doesn't specifically reference a business, it doesn't reference a sport and recreational to me would encompass not only fishermen, but divers, sightseers.

DR. BROMLEY: Okay. I am not arguing for or against. I want to make sure I understand. You are saying that if I go fishing or diving, I am a recreational enterprise?

MR. ZALES: You could be.

DR. BROMLEY: You could be.

DR. GARZA: But you could be an individual.

DR. BROMLEY: I could be an individual.

MR. ZALES: You could be an individual.

DR. BROMLEY: What makes me an enterprise or an individual?
MR. ZALES: But you could be an individual. An individual could also have a commercial enterprise. An individual doesn't necessarily --

DR. BROMLEY: My point is, Bob, the language here is wrong. I am sorry. The language is wrong. I am not opposed to -- you know, I am not speaking against the motion. You just don't want to introduce --

I am sorry, I don't think you want to introduce recreational enterprise for me going out and diving. Am I allowed to say that? Only for coherence reasons, okay? I have Wally, Bonnie and Dave Benton. Wally.

DR. PEREYRA: Yes. With regards to the discussion on enterprise or whatever, I think the word “individual” would cover individuals that are going forward for recreational purposes. So that fits -- it is sort of implicit in there.

DR. BROMLEY: Yes.

DR. PEREYRA: But the enterprise part of it I think is up to a higher order. Is that what you were getting at?

MR. ZALES: No. I just want to be sure that recreational individuals are included in there and in
my mind, individual -- I mean, I could argue, I think reasonably, an individual would also -- would basically include everything in there other than communities and the nation because an individual could be a commercial enterprise. So I am just trying to be certain that recreational individuals or recreational whatever are covered.

DR. PEREYRA: Okay. I am with you.

DR. BROMLEY: I think procedurally, is this a motion before us, Bob?

MR. ZALES: Yes.

DR. BROMLEY: Has it been moved and seconded

MR. ZALES: Yes.

DR. BROMLEY: All right. So we are debating the language -- okay. Bonnie.

DR. MCCAY: I think the unfortunate consequence of that otherwise good suggestion, Bob, is that it makes it sound like just fishing and there are other kinds of things at stake here and I would suggest simply getting rid of commercial so that you have individuals, enterprises, communities and the nation. And that leaves it appropriately more open for the
variety of users.

DR. RAY: Bonnie, explain why you think it means fishing?

DR. MCCAY: Commercial and recreational. I mean, do we have recreational oil and gas? No, we don't. I mean, when you use those terms, it just implies that you are talking about fishing and diving.

DR. RAY: No. No.

DR. MCCAY: Whereas there are other kinds of interests involved in this. I guess my more general point is that you don't the term “commercial” because you already have them implied by enterprise and that opens it up and you don't have to specify recreational, you don't have to specify commercial and you are still saying the same thing at the proper level of language for general objectives like this.

DR. BROMLEY: Okay. On the list, we have Dave Benton, Jim Ray, Max and Barbara.

MR. BENTON: Mr. Chairman.

DR. BROMLEY: Yes.

MR. BENTON: So listening to you and to
Bonnie, although if I remember correctly, because I seconded the motion, I can't propose a friendly amendment to the motion.

DR. BROMLEY: You could lose your nerve on your second.

MR. BENTON: Well, no, there is another reason to do that, but, you know, just listening to your comment, it might be more appropriate to say “benefit of individuals, recreational users, commercial enterprises” and go on the language. That might be a better deal, but I can't necessarily make that as a --

MR. ZALES: I would accept that as a friendly amendment if you would.

MR. BENTON: Well, if somebody would make that.

MR. O'HALLORAN: If it is appropriate, then, I -- the language that Dave talked about about recreational uses --

MR. BENTON: Users?

MR. O'HALLORAN: Users. Because, you know, I think what Bob is saying, I mean, I think it has some merit because we are singling out commercial and to
have the recreational component in there that even though I particularly think individuals kinds of covers it, but if it clarifies it a little bit better, I mean, I could support that. So anyway, I make that --

MR. BENTON: As a friendly?

MR. O’HALLORAN: It is a friendly.

MR. ZALES: I can take it.

DR. BROMLEY: I think we have a friendly that says -- denoting for the benefit of individuals, recreational users --

MR. BENTON: Comma.

DR. BROMLEY: Comma, commercial enterprises and so on. Right?

MR. BENTON: Correct.

MR. BENDICK: Bob, is that okay with you.

MR. ZALES: Then I accepted it and Dave, as the second, accepted it to.

DR. BROMLEY: So we have, okay, Jim Ray.

DR. RAY: I think I can go along with the friendly amendment. I was just trying to keep it simple, you know. If it is for money, it is commercial; if it is not, you know, it is the
individuals at a recreational level, but the new amendment, that could work.

DR. BROMLEY: Okay. Max.

MR. PETERSON: I think that is okay. I had another idea, but I will just defer to that. I think it does it.

DR. BROMLEY: Okay. Barbara Stevenson.

MS. STEVENSON: I think I am so confused I am just going to vote against it. I am not quite sure what -- before the friendly, I had some -- because commercial covers everything from oil and gas to Terry and I and it covered a broad range of things and so that was fine. That is saying all of these enterprises and there is some vague implication that I don't care what your wording, if you put recreational in there, then commercial implies commercial fishing and there are all these other commercial uses. So I am more unhappy with the new wording, but I am not going to propose some other change other than voting against it.

MR. O'HALLORAN: Mr. Chairman, what if substituted the word “individual” and made that “recreational.”
DR. BROMLEY: Who is talking? Terry. Oh.

Sorry. What, Terry?

MR. O’HALLORAN: Okay. All right. I was just thinking about taking out “individuals” and make it, “recreational, commercial, communities and the nation.”


DR. CRUICKSHANK: I wanted to support that particular change there because this morning when I read over both the access definition in your letter and the proposed language in access, then after listening to the speakers this morning, I mean, this is sportfishing or recreational fishing or whatever, it is a big industry and effort and this falls into place. I think it is a very good place in this word “recreational” in that area.

DR. BROMLEY: Okay. Tony.

DR. CHATWIN: Thank you, Mr. Chairman. I do not support the motion and --

DR. BROMLEY: The friendly amendment motion.

Okay.

DR. CHATWIN: Yes. Because, you know, I think Bonnie is right. This is a slipper slope. Soon every
interest around the table will want to be specifically referred just to ensure some -- in this case, we are trying to be precautionary against some unforeseen consequences of not including a specific mention. And I would say that conservation interests here are not explicitly stated and so that is as much as recreational. So I oppose a friendly. I think if it goes through, I would want to see conversation specifically stated in there too.

DR. BROMLEY: Okay. All right. Bonnie and then Dolly.

DR. MCCAY: Well, for the reasons I gave before, I too oppose the friendly as it currently is and if -- you know, because it -- we would continue splitting and if we say recreational user, I would offer that we would have to say recreational and subsistence user and I am sure others would come up with some others that are very, very important. So I am a little worried, again, of going -- of how this is proliferating.

DR. BROMLEY: Okay. Dolly.

DR. GARZA: Thank you, Mr. Chairman, and I
would also agree with Bonnie. I think that I
wouldn't -- I don't think I would feel like I had to	hrow subsistence in there because I think it fits
under individual, but I think if we left it as
enterprise, then it does make it broad and inclusive.
So I think if we just took out commercial, that it
would go -- either you are an individual or you are
making money off of it. And that includes, I think,
everybody.

DR. BROMLEY: I have Eric and I have George.
If I may make an editorial point, would we help
ourselves if we got rid of all these individuals and
just talked about the benefit of the nation?

DR. RAY: No.

DR. BROMLEY: No. Okay. Eric. I guess I
know when I am whipped. I am no fool.

MR. GILMAN: I guess my suggestion is to
delete everything after the word “resources.” Why
identify the specific groups.

DR. BROMLEY: So you are offering a little
different version of surgery, which is promoting
whatever sustainable use of marine resources period.
Is that it, Eric?

MR. GILMAN: Yes.

DR. BROMLEY: Okay. That is just an idea at this stage, not a motion. Okay. And then Dave Benton. Oh, George? Okay. And then Dave Benton and then Rod.

MR. LAPOINTE: I am done.

DR. BROMLEY: George passes. Dave.

MR. BENTON: I came in there a bit on the subsistence discussion. I sort of thought that was covered under item number 5.

DR. GARZA: Yes, don't worry about it.

MR. BENTON: Okay.

(Laughter.)

MR. BENTON: If you are happy, I am happy.

DR. BROMLEY: Dolly is happy. We have Rod and Tundi and then we are going to put a cap on this bottle and sell it.

DR. FUJITA: Right. I oppose the friendly amendment for the reasons I articulated before. But I have a question. I need some clarity on this. By having this as an objective to promote the ecologically -- to provide -- what is it? “To provide
appropriate access to and promote the ecologically and economically" -- are we talking about promoting the use of resources within marine protected areas or are we talking about promoting sustainable use of resources within the EEZ as enhanced by the use of MPA's? I think it is a fundamental question that we are confused about.

DR. BROMLEY: Okay. Very good. Tundi and then we are going to have a vote.

DR. AGARDY: I am not confused. I think our intent was always to talk about how the national system was going to get at -- get us towards our shared objectives of promoting the sustainable use and the conservation of our marine resources.

And I just wanted to say that I disagree with Eric because I think that the intent of -- the fact -- the second half of this section, number 4, was meant to capture that bigger picture that we are interested not only in sustainably using for the benefit of the local site or the benefit of the local communities, but also sustainably using for the benefit of the nation. So I think it ought to be in there. And I agree to knock
out commercial and just have enterprise because it is redundant.

DR. BROMLEY: All right. I think I would like to have a vote on this friendly, okay. And the friendly is the -- is that right?

DR. GARZA: Call the question.

DR. BROMLEY: Pardon me? Yes, we are going to vote -- and the think we are voting on is the five words to be inserted before --

DR. GARZA: No, we did that already.

DR. BROMLEY: We already did that.

DR. GARZA: Recreational users.

DR. BROMLEY: Oh, yes, recreational users. Yes. Yes. I got so tapped into the other one, I wanted to vote on it twice. Okay.

MR. BENTON: Could we restate the motion, Mr. Chair?

DR. BROMLEY: Yes. The motion -- who made it?

MR. ZALES: I did.

DR. BROMLEY: Bob did.

MR. ZALES: It is simply in between -- after the comma of individuals, it adds recreational users,
comma, then commercial. Those two words and one comma.

Recreational users and a comma.

DR. BROMLEY: Recreational users, comma, goes in before the word “commercial.”

MR. ZALES: Correct.

DR. BROMLEY: In point 4. Are you ready for the question?

PARTICIPANT: Yes.

DR. BROMLEY: All in favor say aye.

(Chorus of ayes.)

DR. BROMLEY: Opposed?

(Chorus of noes.)

DR. BROMLEY: I would declare the ayes have it, but I will count hands if you would like.

MS. STEVENSON: So that adds recreational --

DR. BROMLEY: That adds recreational users after individuals. It will now read individuals, comma, recreational users, comma, commercial -- okay. Where are you.

DR. AGARDY: Can you count because I wasn't paying attention when you voted.

DR. BROMLEY: You would like a show of hands?
DR. AGARDY: Yes.

DR. BROMLEY: Okay. Fine. All in favor of the motion say aye.

PARTICIPANT: Raise your hand.

MS. WENZEL: 11. I have got 11. Okay.

DR. BROMLEY: Opposed.

MS. WENZEL: Opposed. 11. Wait. Let's do this again.

DR. BROMLEY: Put your hands up high. All in favor, put them high.

MS. WENZEL: 11.

DR. BROMLEY: 11 in favor. Opposed.

MS. WENZEL: 11.

DR. FUJITA: It was just a loud majority.

DR. BROMLEY: How about I hide under the table.

DR. GARZA: Tie votes fail.

PARTICIPANT: Tie votes fail.

MR. BENTON: Did the chair vote?

DR. BROMLEY: The chair did not vote.

MR. PETERSON: It is the Chairman's prerogative. The Chairman can vote or the Chairman
cannot vote whichever he pleases.

DR. BROMLEY: The chairman has decided not to vote.

DR. HALSEY: Vice President Cheney wouldn't do that.

(Laughter.)

DR. BROMLEY: That is precisely the reason why I refuse to. I need no other reason than that one.

Barbara.

MS. STEVENSON: Gil and I have agreed on a definition of access, which I am sure wouldn't pass given that we agree, but I thought I might just float it in hopes that it would fly through.

DR. BROMLEY: Okay. Go ahead. Is everybody clear where we are? We did not change the language. The motion failed. Okay. Barbara, that is fine because I was going to say maybe we need to deputize some people to go away and define access, but you think you have got it.

MS. STEVENSON: We may, but if it floats, fine. If it doesn't --

DR. BROMLEY: All right. Let's hear it.
MS. STEVENSON: I don't want to sit here and debate it for a couple of hours. Access includes both physical ingress to and egress from an MPA area as well as an extraction of resources appropriate to that enterprise and to the goals and objectives of the MPA.

DR. BROMLEY: I can't accept it. I am sorry. You have got extraction, which is -- you know what John just said. I mean, we have resources that are not extracted.

MS. STEVENSON: That is right. That is why it says to the goals and objectives of the MPA.

DR. HALSEY: But there could be an MPA that was directly focused on the preserving in place.

MS. STEVENSON: Right.

DR. GARZA: If we could just take a break and have Lauren put this up on PowerPoint so we can see it.

DR. BROMLEY: All right.

DR. MCCAY: In addition to that, the other definitions that are in the dictionary that might be useful.

DR. PEREYRA: I have got one.

DR. BROMLEY: Wally has one. Okay. We will
have a -- David.

MR. BENTON: Mr. Chairman.

DR. BROMLEY: We have a call for a break, but go ahead.

MR. BENTON: Well, on our break, I would -- given that we heard that we have three or four different versions, it is, of course, the prerogative of the Chair to appoint a working committee.

DR. BROMLEY: Yes.

MR. BENTON: I would just call your attention to that and whether or not that might be a good idea, I mean, to you.

DR. BROMLEY: All right. The working committee shall consist of all of those who have their favorite definition of access come up here and give it to Lauren.

MR. BENTON: Work it out.

DR. BROMLEY: And work it out.

MR. BENTON: Over the break.

DR. BROMLEY: Over the break. You have got 10 minutes. We are recessed.

(A brief recess was taken.)
DR. BROMLEY: We are reconvening. It is a quarter past 3:00. We have a public comment period at 3:45. It is my understanding, from visiting with Dana, that we have five people signed up. It may go up to six, I am not sure, but that is a manageable number.

We had, over the break, a number of people come forward with ideas about access. There are a few people in our group that have thoughts about access who I suppose having registered them up on the screen. The deal is that we are going to deputize -- I am going to deputize anybody who has any thoughts about access to work under the leadership of Bonnie McCay to bring us, by 8:05 in the morning, four sentences addressing the issue of use and access. You may have five, but short.

MR. NUSSMAN: Why not one?

DR. BROMLEY: Why not one. Two sentences. But please, you know the point is succinct. What do we mean by access? What do we mean by use? And I presume what we want is language that could go in the glossary. Is that the sense of the group? A definition. Okay. All right. Thank you.

MR. LAPointE: Who is on that group?
DR. BROMLEY: Pardon?

MR. LAPOINTE: Who is on that group?

DR. BROMLEY: Who is on that group? Anyone who wishes to show up. Bonnie is going to chair it.

So -- let's do it this way. At 5:00 when we break, those who wish to be part of this access subcommittee, come up here to Bonnie.

PARTICIPANT: Open access.

DR. BROMLEY: All. Okay. And the agreement, by coming forward, is that you agree this evening, after our group dinner, to work on it and maybe have breakfast and be ready to put up on the screen at 8:05 in the morning some language. Okay? All right.

Well, this took a little longer than I thought, but it is a big deal. So that is okay. We need to spend our time on good things and that is important. I would like to now go around the room and I would like to give each person -- I am going to start with John over here on my left and go around -- two or three minutes at most. I will cut you off if you go beyond that. I want to know what you think about the draft. John.
DR. HALSEY: Okay. Well, cultural resources, both ethnographic and historic, have not gotten as extended a treatment as fisheries, but I assure you that their supporters and users are every bit as impassioned as the other protectors, other interest groups that we have heard from.

I hope that in future meetings, we will have opportunities to have presentations demonstrating their unique and non-renewable values and their contributions to local economies. Given the scope of the charge of the committee, I believe that the hard or historical cultural resources have been considered and are included and based on my experience with existing shipwreck MPA's, I can support the current draft.

DR. BROMLEY: Thank you. But you do have an idea, an issue that you would like us to devote more time to --

DR. HALSEY: Yes.

DR. BROMLEY: -- in the next life.

DR. HALSEY: In the next life.

DR. BROMLEY: Okay. Thank you. That is wonderful, John.
John Ogden.

DR. OGDEN: Well, let me say at the outset that I came into this process not really prepared for the kinds of progress that we made and I think we ought to congratulate ourselves on essentially coming from a variety of viewpoints in what I consider personally to be quite a remarkable document through a transparent and open process.

We are, essentially, as I like to call it, the only act in town after the COP report, which helped us to define, as a nation, a huge, long list of real and significant problems that we face in interacting our society with our oceans and this issue of MPA's is going to be essentially the gatekeeper for what I personally hope will be a national effort to implement ecosystem-based management in the coastal ocean of the United States.

I have -- if I had, and it is really covered in one of the four topics, but if I had to nitpick the document just a little bit with regards to the things that I would have liked to have seen in there is, I am concerned about the -- while understanding and
certainly supporting the stakeholder involvement in the regional way that we have done and the complete transparency that we have gone through, and I have been through that before in my comments, is incentives to establish MPA's within the regions and which would devolve to legislative authority, question mark, and especially funding.

And I know you have covered those in the four aside issues, but -- and how we deal with them as a group, I guess, is something that is yet to be determined, but those are my comments.

DR. BROMLEY: Thank you. This, too, could be an issue for future work.

DR. OGDEN: Yes.

DR. BROMLEY: Incentives and funding. Thank you.

Mike?

MR. NUSSMAN: Thank you, Mr. Chairman. First, let me say that I am not prepared at this point to endorse the document and my lack of endorsement doesn't mean that I won't at the end of the day. It means that right now I want to hear what everybody else has to say
and unfortunately I am number three on the list.

DR. BROMLEY: Yes.

MR. NUSSMAN: Specifically -- how do I say this. This process is one that if it is successful, it can be -- I think it can be very helpful because we are asking ourselves to do -- to think hard about a number of very difficult issues and access is clearly one of those very difficult issues and it is one that perhaps Congress or perhaps the Administration or some regulatory body might be better placed to consider than we, but we have got a variety of groups sitting around here and the only way, you know, a document is going to go forward that we all sign off on is if we all see something in there that gives us some hope that we are moving our position, our concern forward at the same time understanding that there are broader goals we are trying to accomplish.

So specifically, the issues that I am interested in hearing more about, and will ask more about it at an appropriate time, would be in your May 2nd memo, the definition of harm. And as I recall, and this goes back a long way to maybe the first or
second meeting, it was some -- the term “remanaged areas” came about as a concern by the Administration or by the secretary office that harm was an issue and my question will be, as we go forward with this report, how are we affecting the issue of harm and what are we saying as a committee. So I -- that is one of the questions I will ask Joe or I will ask someone here.

With regard to your May 2nd memo, the proposal to exclude energy and mineral resources, I might add that if we could add commercial fishing and recreational fishing in there, we might be able to complete this meeting today, but I would assume that might not work.

Three, the authority is one that I had raised along with others. With regard to the authority that is included, one of my concerns is we are producing a report and while I have raised the issue of authority I think in every meeting, sometimes loudly, sometimes not so loudly, I am -- I have concerns that my name is attached to a document that is not well thought through in talking about the existing authorities that we are pushing forward on.
I am not at all convinced that we have the authority to do all the things that are included in here. I am not at all convinced that even if they are -- if we could find some credible, broad definition of existing authority -- say they are there -- that there is any way it would be likely to happen. So I guess I have some personal interest in not producing a document that is irrelevant the moment it is produced. So I am not necessarily happy with the way we have dealt with existing authorities for that very reason.

And then of course the issue that I think Wally raised, NEPA issues. You know, I think part of the whole access we discussed, we just finished discussing, is a journal on use about, as we go forward, the recommendation we are making and sort of the costs and benefits of looking at closed areas, how they are evaluated and what this committee's recommendation on those issues are.

So those are three specific issues that I want to hear more about, that I have tried to read this report with regard to those issues and think through what it is saying and what it is not saying, but those
are ones I will look for more clarification and hope to get over the next couple of days. Thanks.

DR. BROMLEY: Let me ask, Mike -- thank you. That is a wonderful and concise statement. Let me ask if -- because you may not be the only one to raise these issues. Would it help us in the document not in a minority report, but in the document itself, to say that we are not sure we have had adequate time to address these profound issues and the report that we send forward is drafted in recognition of inadequate time to address these things and that these should be priority things for the future.

Would that make you feel any better -- I don't mean to pin you down totally, but would that make you feel better? Is there something we can do in the document, short of opening up a long and detailed discussion about authorities and harm and all those things, in our closing section to address these?

MR. NUSSMAN: Mr. Chairman, I would certainly agree that there would be way, short of solving every problem on the universe, to go forward. Now exactly what that language would look like and what sort of
profile it would give those issues, you know, I am not
certain right now and I, you know, would be listening
to others to hear what their thoughts are.

And I don't think, at least from my
perspective, we need to solve every problem. I mean,
there may be some problems we can't solve. I think
things like access, things like use, that is so
fundamental to the sort of the basis of what a
protected area is that we would be chicken if we didn't
do that.

DR. BROMLEY: That is right.

MR. NUSSMAN: And let me go back to an issue
that I didn't raise. You know, I am hopeful that we
don't end up with an 11 to 11 report coming out of here.

DR. BROMLEY: Yes.

MR. NUSSMAN: That would not serve any of us.

It essentially says we have not made the progress we
would like to make.

DR. BROMLEY: Yes.

MR. NUSSMAN: And so, you know, the real
charge is -- if we do that, what we have largely said,
we have spent two years and we are just as troubled, confounded, whatever it is, as we were when we started. We are so very, very divided and we weren't able to pull it any closer together.

DR. BROMLEY: Well, that is why I asked because one way to deal with division if it comes is to have a minority statement of these concerns. Another is to fold it into the document itself and say these are issues that this committee has not had time to address. We understand they are profoundly important to the ultimate structure of MPA's in the United States and we put those right in the report. And so what I am looking for is whether or not there is language that we might put in that last section of the report that raises this. So that is all. Thank you, Michael.

Okay. Maybe you want to respond.

DR. MURRAY: No.

DR. BROMLEY: Yes. Tundi.

DR. AGARDY: I would like to reiterate what John said about how far we have come and I also had low expectations, I must say, for this committee and I have been pleasantly surprised at not only the progresses
that we have made, but the extent to which people are willing to look at things from other people's points of view and listen. So I am very pleased.

I would like to endorse the current draft for two reasons. For one, I think it avoids putting undue emphasis on fish and other kinds of marine critters that humans use and really thinks much more comprehensively about what the oceans mean to us.

And because it avoids discussions of the pros and cons of individual MPA's and how they should be decided, but rather really focuses on the idea of a national system and what the value added is of a national system, including, of course, not only promoting sustainable use, but also trying to conserve biodiversity and safeguard livelihoods and recreational opportunities.

And I think that one of -- and I don't have any concerns that would prevent me from endorsing the document or voting for it. I do have -- I have two feelings about it that are kind of negative in the sense that I think that we don't emphasize enough the value added of a system versus the value of individual
MPA's in meeting all these goals.

So I wish that that came out more strongly. And of course, one of the value added, in my opinion, of the system is that it helps us kind of stay away from a very myopic view of what is happening at the site level and really think about the Nation's marine heritage and what I think are our common goals in trying to conserve the ocean environment.

The other kind of criticism that I have of the report is, you know, I have to say, frankly, I really miss the passion that we introduced in some of the earlier drafts and my subcommittee members will laugh because I brought up the issue of the passion in the subcommittee, but more seriously, I don't think we make a very strong statement of need or statement of purpose for a National Marine Protected Area System.

And I think that is because many of us are coming from the perspective in our particular place where we live and work or in our particular arena, things are going relatively well, but if you look at the big picture, I think we would all agree that there are many, many problems and not only having to do in
some cases with fisheries, but also, more importantly, with the fact that we are losing biodiversity daily, we are degrading and losing habitat. Our water quality is declining and frankly the services, the goods and services that human beings depend on in this nation, as in other nations, are not being provided because we have compromised these systems.

So I would like to see a stronger statement of need in here. And I understand why it was removed and as I say, I will endorse the report in whatever form it takes because I think it represents a good effort for all of us, but mainly, I would like to propose having some kind of a preamble put back in that really states why we think a national system is warranted.

DR. BROMLEY: Okay. Good. Thank you, Tundi.

Steve.

DR. MURRAY: Well, much of what I would like to say has already been said. So I will try to be brief. I think that we have done a really nice job of codifying a lot of issues, incorporating the viewpoints of multiple perspectives, and I think it has been a learning experience for me and I really appreciate that
learning and some of the end results that we have seen. I am comfortable with the report, essentially, as it stands. I think that most of the major issues have been dealt with from my perspective, although I know that is not true around the table.

I would like to reiterate the point that Tundi just made and that has to do with relying more on documents that clearly outline the need for doing different things with regard to the ocean and the way we manage the oceans. I think we have underused the U.S. Commission on Ocean Policy report with -- and its findings. It calls for many different management changes with regard to setting a stage or a template for this effort.

I think I find it interesting, and I encountered this in another effort that I am involved with, that frequently folks who are engaged in activities where the Ocean Commission report sort of says, “Well, you need to do things a little differently,” they don't like to hear that so much. And yet, you know, we have a major body that has gone through a major effort, larger than our own here, and
there are a lot of important things that I think clearly set the stage for doing things differently than we have been doing them and I don't know that we have made use enough of that particular report and its findings.

And in that same context, I also would argue that the call in that report and in other places for a more ecosystem-based management scenario set of approaches I think could also be more integrated into this report because I think that the use of marine protected areas, as tools for that purpose, has not been laid out very well in this report and both of those comments that are in line with the U.S. COP findings. That is it.

DR. BROMLEY: Thank you, Steve.

Mark?

DR. HIXON: Thank you, Mr. Chairman. I am teetering. If I was forced to vote at the present moment, I would vote yes to endorse the document. At the same time, there is a few things I believe that must be addressed and will be addressed before we leave.
I am glad we are going to explore the relationship between access and use because talking with members during the breaks, I am seeing a wide range of interpretations and perspectives and I believe that clarification is essential. If it is not made clear by the end of this meeting, then I would suggest that it go into a list, an explicit list of unresolved issues.

I do totally endorse the idea of having a section at the end that lists, very explicitly, what the unresolved issues are as you have proposed. I believe that is going to be an essential change to be made in the draft.

Also, during the break, speaking with people, it has become clear that our modifications of page 4, line 33 -- no, page 3 -- wait a minute. Correction. Line -- page 3, line 33, item number 4, those modifications we just made have about as many interpretations as there are people on the Committee right now. I believe that needs to be clarified so that we are all on the same page. So those are my major points.
DR. BROMLEY: So you would like to go back and fix what we just did.

DR. HIXON: Unfortunately, yes. Believe me, I hate to say it. So the three main things are --

DR. BROMLEY: See why I didn't vote? Sorry.

DR. HIXON: Yes. Relationship between access and use, going back to item 4 on page 3, line 33, and then this explicit list of unresolved issues at the end. Otherwise, I have minor comments regarding wording and overall, the document is pretty boring to read. Thank you.


MR. PETERSON: Mr. Chairman, I am heartened by the progress we made today. I am very hopeful that I will be able to not only support by signing this report, but also equally important, I think that supporting it within the Administration and maybe in congressional testimony. That may be more important than whose name is on this document. So I am hopeful that all of us will be in the position, by the time we are through, to say we support this report. And that is my objective.
I am still concerned about how this access question works out. I am concerned, as Mike is, about this 11 to 11 vote. I don't think that is a very good way for us to leave that. I think we need to struggle with that to see if we can't get more unanimity as to where we are going.

And finally, we say, about five times in the report, that we are going to do this under existing authority. In fact, if you go to page 11, we say the executive order provides a federal agency with the direct authority to establish a national system while the executive order itself says it doesn't provide any new authority. So that is obviously not correct.

So I have written a proposal that I will have typed up during the night and present tomorrow that will simply say something like this, "The Committee is unsure as to whether its recommendations can be implemented under existing authority. We recommend that the secretaries of commerce and interior have a legal analysis completed to determine what additional authority would be required or advisable to carry out the Committee's recommendations."
Then we simply strike those places that we say it is going to be done under existing authority. Now I think that doesn't negate the document, it doesn't put it off, and I think that allows the two departments, then, to move ahead because if they decide that we don't need legal authority, that is good enough for me, but I think it is presumptuous for us to say that we have legal authority, Mr. Chairman. So I will have that typed up overnight if I can.

DR. BROMLEY: Thank you, Max. Okay.

Terry.

MR. O'HALLORAN: Terry or Larry?

DR. BROMLEY: Terry. We are going to get the views of the ex officios later.

MR. O'HALLORAN: Okay.

DR. BROMLEY: We want that, but I was going to go to the FAC and then come back to the ex officios. Is that okay, Brian and Larry?

Terry.

MR. O'HALLORAN: Okay. Thank you, Mr. Chairman. Well, first of all, this whole experience for the last couple of years for me has been
a major learning experience. I have learned an awful lot from everyone sitting around this table and essentially, I endorse this document. I don't think it is perfect and there are some things that were brought up today, particularly, as others are saying, about access and use, that I think we still need some discussion on. And it is -- in some ways, it is kind of surprising we haven't addressed this earlier on than we are now, but it is a very important one and certainly germaine to what we are doing.

I guess one of the concerns I have, and it is more of an implementation concern, rather than the document itself, because I don't have -- I don't know how it could be better, but that is of regional coordination and incentives for non-federal jurisdictions to actually buy into a national system, which I think is critical to the overall success of a national system. And maybe later on in another iteration we can do a better -- we can, I guess, add some more substance to that.

The only other comment I would have is that those four substantive issues that you listed in the
memo, I would hope that those might be tabled for another discussion. I look at those and they are all -- in my view, they are all incredibly important, large issues in which to deal with. And part of it -- I guess if we have opportunities in our next iteration as another committee or continuation of this committee that we address those.

But I certainly would have a concern that we get into those during these three days that any one of those issues could bog this process down to the point where we might not be able to find consensus on what I feel like has been a very good job by everyone, finding compromise and finding something that we can live with.

And I certainly wouldn't want to hope that the two years we have put into it at this point are -- will end up with a fruitful document without a minority report in a way that we can agree on it so that we can feel like our time was certainly well spent. Thank you.

DR. BROMLEY: Thank you very much. It is almost a quarter to 4:00. Kay, would you mind if we suspend. That will give you a chance to collect your
thoughts a little more because we do have the public comment period scheduled for 3:45 and I don't want to make them wait.

MS. WILLIAMS: I don't mind waiting.

DR. BROMLEY: Pardon me?

MS. WILLIAMS: I don't mind waiting.

DR. BROMLEY: You don't want to wait?

MS. WILLIAMS: I will wait.

DR. BROMLEY: You will wait. I am sorry. You are happy to wait. Do a second draft, Kay.

Okay. So we are going to suspend the rotation here for the public comment period, which is supposed to start at 3:45 and that is about what time it is. According to Dana, we have five individuals who have asked to appear before us.

You will have five minutes. I have a Pyrex timer here to keep you honest. And so Lauren, Joe, may we proceed with the public comment period? Is that what we need to do. Okay. The first speaker is Jud Crawford. We would like you to state your name and why you are here or who you represent.

DR. CRAWFORD: My name is Jud Crawford. I am
a scientist, a biologist, with the Conservation Law
Foundation in Boston. The Conservation Law Foundation
is an environmental advocacy organization. We have
worked on a variety of marine issues in the Gulf of
Maine region for the past three decades, including the
coastal issues, pollution sources, oil and gas
exploration, the offshore fisheries management and the
development of marine protected areas and other
mechanisms for conservation of ecosystems and
biodiversity.

I want to begin by thanking all of you for
your hard work on this what we think is a very, very
important task and commend you for the draft document
that you have produced so far. I think it is -- you
have done a wonderful job and you have covered a lot of
important things, including public process, ranging
from different types of MPA's and their functions and
things ranging from fisheries management to ecosystem
and biodiversity conservation.

There has been a lot of discussion today about
access and types of MPA's and goals for MPA's. There
has been a lot of focus on access for fishing. The
document that you produced, though, does an excellent job of making it clear that there are a variety of goals and focusing on -- or recommending that we need to keep our eye on what the goals are when we think about how to set up MPA's and in particular, the national system, which has a variety of objectives, including things that happen in those protected areas and also things that are a consequence of a well designed network of MPA's, including sustaining ecosystems that produce the commercial and recreational products that we use.

I think I want to just urge you, partly because of the bias towards fishing that I have heard today, to hold onto the importance of some of those other things and to fulfill a responsibility that we all have, that I feel very strongly, and I think many of you do as well, to sustain that biodiversity out there for future generations. Some of it we use now and most of it we are unfamiliar with and some of it will undoubtedly hold commercial and other kinds of values that we don't know about yet. And that is a big responsibility and we have to take that very seriously.
There has been some discussion about sound science or just science in general and how it relates to marine protected areas and since I have taught biology for 15 years, I can't help but talk about that a little bit, even though it may not be the most important issue.

Science has scientists talking to people who are learning about science and how we use science. We could say many things. We have heard some. You have some distinguished scientists on your panel. One of the things that comes to my mind when I think about science is observations. Marine science involves observation of a variety of conditions, including what we think of as the natural state. Marine ecology can't be studied by observing areas that are not perturbed.

Another thing that is very prominent in I think any scientist's mind when they are asked well, what is science and what does it involve, it involves control in controlled areas. If you want to understand what is happening as a consequence of something that you are doing, you have to have some concept of what happens when you don't do it.
So protected areas, whatever you want to call them, marine managed areas, marine protected areas, areas where you don't go have a role in understanding what happens when you don't perturb them inside those areas and it also has an essential function in understanding what is happening elsewhere. You can't understand what is happening elsewhere without such places.

The last thing I want to comment on -- there are several other things in our comment letter, but the last thing that I will mention that several people have talked about here is our feeling that there is a real concern that the existing agencies and policies at the federal level to mandate or in your words -- using your words, to galvanize a process for having a well integrated system, national system of marine protected areas, isn't there. That is our feeling.

If you as a group feel that the mechanisms are there, we hope that you can do a clearer job of delineating how these mechanisms, how the policies, existing laws and agencies can make this happen and if you don't conclude that they can make it happen, then
you need to give us some guidance on what else is
needed to make this happen.

We have heard from the Fisheries Management
Council and know from the Fisheries Management Council
that many of the things, the Marine Protected Area
Center, for example, identifies as important purposes
or uses, goals for marine protected areas are outside
the scope currently of the Fisheries Management
Council.

So that is a problem. The Fisheries
Management Council in the Magnuson Act are clearly one
of the things that comes closest, but as far as we can
see, it doesn't do the whole job. So we need help with
that and I hope that maybe you can address that further
as you refine your draft. Thanks.

DR. BROMLEY: Thank you very much.

Would anybody like to pursue a point?

(No response.)

DR. BROMLEY: If not, we will move right on.

Thank you, Mr. Crawford.

Vivian Newman, please.

MS. NEWMAN: Good afternoon. I am Vivian
Newman. I am a volunteer with the National Sierra Club, the National Marine Wildlife and Habitat Committee and we have been following this for quite a while, as Joe knows. In fact, as he also knows, the board of the Sierra Club in the 1960's was called up for something very similar to what we are working on now and we are still with you. I especially want to thank you for the opportunity to be here and to hear the deliberations and I just want to say onward and please count on us for support as you go to the next phase.

I hope that you will call on the next phase to address these four subjects that you have listed in the notes there. In particular, as we are speaking, obviously, it is very likely that Congress will do things that will open up the moratorium areas that are now not available for oil and gas leasing. We think that there should be some attention, in addition to the effects of climate change, on marine protected areas, things like species distribution and so forth that will not hold still for you and we would like to encourage more research sites, control sites, which I guess would
mean no access for a great many of us.

I have learned a couple of things in the course of today that definitions are certainly elastic. For example, participatory process really means it is opened to political manipulation, that sound science means what I want to hear. I can tell you that sound science -- I don't use the word "sound science" or that term, but it does mean that we need research sites. That is what I hear. Baseline, is it the starting point or is it the goal. So thank you again.

DR. BROMLEY: Thank you. Are there questions for the speaker, for Ms. Newman?

(No response.)

DR. BROMLEY: If not, thank you.

Dr. Dennis Heinemann, please.

DR. HEINEMANN: Thank you very much for the opportunity to speak and for the excellent work you have done. I am a research scientist with the Ocean Conservancy, which is the oldest and largest exclusively marine conservation advocacy group in the world and we would like to thank this committee for the excellent work it has done, for the really fine job it
has done of developing a set of recommendations for processes for the development, establishment, implementation and management of marine protected areas.

I think you also have come up with a laudable set of goals and objectives, although I would agree with Tundi that I think they could be strengthened a bit to provide a bit stronger vision of where we should be going in developing a network of marine protected areas in this country.

I was going to speak to another issue, but this -- the discussion of access has prompted me to make a different comment. I think I need to say that I believe that access is not an objective, it is not an appropriate objective of an MPA. Access is available everywhere else in the ocean and by default, it is available.

Your MPA goals to enhance stewardship, lasting protection and sustainable use have to be achieved through the control and potentially limiting of access to activities if you are going to achieve those goals. It is the only way you are going to achieve those
goals is to control access and activities that are incompatible -- that are inconsistent, let me say, with those goals.

But the changes I think that you have made in the fourth objective to define or to allow for appropriate access, as an objective, okay, of an MPA were done without any criteria for determining what appropriate is. And I think that was an oversight that perhaps you will want to address because I think that it opens up the door, then, for access to be a default condition of an MPA and I think that there has to be some understanding, there has to be a determination of whether or not an access -- whether access and the activities that go along with access are consistent with the goals and other objectives of an MPA that you have already elucidated.

I think that making access an objective is really not consistent with a precautionary approach to marine management and protection, which I would argue is essential if we are going to improve and restore our resources and environment’s access to uses that can damage or impede achieving the goals of an MPA. And I
would argue that that potentially includes all uses. All uses have the potential to be damaging and to impede achieving the goals of an MPA, the goals that you have established and objectives.

I would argue that they should only be permitted when it does not impede those goals. In other words, I think for decades, in our system, we have allowed, by default, activities, access to our oceans until we have shown that they are inconsistent with whatever our goals and objectives are as a society or in this particular case, the goals and objectives of an MPA.

And I think that one of the evolutionary moves that we should be making, both in terms of protecting resources and in managing them effectively, is to turn that whole problem around and ask that we identify which activities and which -- therefore, which forms of access are going to be consistent with achieving goals before we allow them to create the -- to create a problem that we then have to come along and solve. So I would suggest that making access an objective of an MPA is inconsistent with a precautionary approach to
management. Thank you.

DR. BROMLEY: Thanks, Dr. Heinemann.

Yes, questions from the Committee. Tundi?

DR. AGARDY: Dennis, thanks for your comments.

I think maybe the problem -- concerning your last comment, I think maybe the problem is interpreting what we meant when we were talking about objectives in that section on page 3 because I think all of us -- in fact, we got into many discussions of this in the subcommittees and in the full committee in earlier meetings.

We aren't talking about the objectives of any individual MPA. What we are trying to articulate is the objectives of the system. And what we are trying to articulate, I think, with the access language there is that we envision a system that will conserve the Nation's biodiversity, protect representative ecosystems while providing appropriate access.

So I think we are talking about the Nation's waters as a whole and that is why I feel comfortable, as an environmentalist, with that language. And I think that is the question that Rod was asking earlier.
Do we mean -- are we providing access to all MPA's to all users. No, that wasn't our intention. I think we are envisioning a system that guarantees appropriate access to the Nation's waters and resources while safeguarding biodiversity, which I think is achievable.

DR. BROMLEY: Okay. I have Bob Zales and then Mark Hixon.

MR. ZALES: I have got a question. When we talk about MPA's and biodiversity and the whole bit, a lot of that has to do with water quality. And I have stated many times at this table and thrown an example out about the sea grass bits, and whatnot, in conjunction with using federal waters.

And a lot of destruction is not necessarily done by users, I guess is the term, of people that dive, fish, swim or boat on the water. A lot of damage is done to the water quality which comes from development, runoff and things like this. Well, where does the Ocean Conservancy stand and what have they done to try to limit some of that development and harm by stuff like that?

DR. HEINEMANN: I think that the Ocean
Conservancy is -- has been very clear in identifying that certain sources of pollution, certain sources of disturbance and destruction to marine environments that are terrestrial in origin are problems that should be solved and problems that we should fix. And the Ocean Conservancy has a number of programs to address those. We do it on a regional basis. So it may not be happening in the region where you are most familiar.

I would also use that as an opportunity to point out that marine protected areas are not a tool that can address all problems and one problem that they are not particular well suited, I would argue, to addressing would be marine pollution. You need other measures to address marine pollution, whether it is marine in source or terrestrial in source. They might be able to help, but that is not one of their primary goals.

DR. BROMLEY: Mark and then Rod. If we could make them short.

DR. HIXON: Very short. Thank you, Dr. Heinemann. Regarding the discussion you just had with Dr. Agardy, I believe that reflects the issue that
came up for me during the break that I have already stated, that objective 4 has different meanings to different people as it now stands and requires further clarification so that it is very explicit to everyone.

Thank you.

DR. BROMLEY: Yes. Okay. Rod. Last.

DR. FUJITA: Yes, thanks, Dennis. I was interested in your comment about the standards to define what appropriate access means. Can you elaborate on that. Are there precedents, are there processes that we can draw on to define what constitutes appropriate access and, I mean, is -- in your mind, is it essential that we define what appropriate means and put out standards for it if we are going to address access in this document?

DR. HEINEMANN: I think this committee has identified a very important principle, which is that at this level, you cannot get into prescribing which uses are appropriate and which uses are not. Which access is, you know, is possible and which not. I mean, I think the discussion of which activities, commercial, recreational, et cetera, and there was a whole long
list of potential ones, that it is sort of the difficulty, I think, of prescribing at this level was illustrated by that discussion.

However, I think that this -- one of the really best things you have done, and it is probably far better than it has been done in any other process, is -- has been to define a set or make a set of recommendations for processes for making decisions like this.

And so I would say that deciding what is appropriate should be done at the local level or regional level guided by the principles that you have put forward, or the recommendations you put forward, and it should be done on a case by case basis. It should be participatory. It should be fair and equitable and open and should be knowledge-based and all the other principles that you have, you know, elucidated with respect to processes for establishing MPA's and evaluating them, et cetera.

I suspect that there probably are a series of criteria -- when Mark proposed the additional language to item 4, I suspect that there are probably a set of
criteria that he had in mind, but I think what is also
equally important to coming up with those criteria is a
process that is flexible enough and adaptable enough to
meet the needs of each individual MPA or set of MPA’s
that is being worked on.

DR. BROMLEY: Good. Thank you very much.

DR. HEINEMANN: Thanks.

DR. BROMLEY: I am afraid we have to move on.

Thank you.

Ms. Susan Farody?

MS. FARODY: I am going to pass, Mr. Chairman.

DR. BROMLEY: You are going to pass. Okay.

And Mr. Benson Chiles.

MR. CHILES: I have written comments here. My
name is Benson Chiles, I work with the Coastal Ocean
Coalition. It is a new coalition that came together in
the last year and a half.

I want to thank Bob Hayes for speaking earlier
today. I told him in the break that I have him to
thank for the creation of this coalition, which has
been working on the Freedom to Fish Act, or what we
like to call the funeral for fish act, in the states
and we, you know, we have been working actively with the coalition of 60 organizations. There are five leading groups involved: Environmental Defense, NRDC, The Marine Conservation Biology Institute, the Ocean Conservancy and the Conservation Law Foundation.

And in our written comments, you will see that we are very complimentary of the work that this committee has done, based on the document that we reviewed, and I want you to know that we appreciate all of the hard work that you have put into it.

One of the things that I have learned in working on issues of access and marine reserves in the states is that it is very difficult to put something positive and proactive on the table. It is much easier to work on defensive posture issues and in the context of the coalition that I am working with, while we were working on these FFA efforts in the states, the PEW Ocean Commission report came out, the U.S. Commission report came out and we were getting strong signals from decision-makers and from members of the NGO community that it was important to be doing proactive work, not just defensive work.
And in that context, we have been working with organizations to help them devise and promote a state-based ocean's policy. And I want to just recognize, in the context of this committee, how challenging that can be and again, I want to thank you for that work.

I think the challenge from here forward will be how the national system of MPA's can be implemented. The political will is the most difficult thing to generate in the context of a proactive initiative. So anyway, thank you for your hard work.

DR. BROMLEY: Thank you.

MR. NUSSMAN: First, let me acknowledge that Bob -- I don't think Bob is here anymore, but I will pass him your appreciation for his hard work on the Freedom to Fish Act and say that we, too, on the recreational side, want to thank the environmental community because it served as a huge rallying cry from a variety of groups. The Ocean Conservancy and others came forward with proposals to close much of the
coastal ocean and that, in fact, created the Freedom to
Fish Act or a need for the Freedom to Fish Act.
Perhaps that is more of a statement, but I will say
wouldn't you agree?
(Laughter.)
MR. CHILES: I would agree with that
statement. Yes, I would.
DR. BROMLEY: Okay. Bonnie and then Wally.
DR. MCCAY: Mr. Chiles, would you mind just to
explain a little bit about how you would talk about
access from your perspective. I mean, the access is
clearly a concern everybody shares.
MR. CHILES: Sure. I am not an expert in
these issues. So I will just state that outright.
What I do think -- what I know, though, is that there
is a lot of overlap in terms of both the environmental
community and the various other interest groups who
want to access the ocean in defining access.
We all agree that the ocean is a public trust
that should be protected and it is a public trust that
should be accessed for use. So we have a lot of common
ground and I hope that we will be able to walk on that
ground more often in the future.

  DR. BROMLEY: Okay. Wally.

  DR. PEREYRA: Thank you, Mr. Chairman.

  Mr. Chiles, I am sure I can probably get the
  information from your website, but since you are new
  organization that I am not too familiar with, I was
  wondering could you -- where does your support come
  from? Are you a --

  MR. CHILES: We are a project of these
  environmental organizations.

  DR. PEREYRA: These organizations.

  MR. CHILES: That are listed on the
  letterhead.

  DR. PEREYRA: Okay. Thank you.

  MR. CHILES: Sure.

  DR. BROMLEY: Okay. Thank you

  MR. CHILES: Thank you.

  DR. BROMLEY: I think that does it. Thanks,

  Mr. Chiles.

  John Ogden, is your hand up or are you just --

  DR. OGDEN: No. I am sorry.

  DR. BROMLEY: All right. I declare the public
comment period closed. Thank you very much those of
you who came and spoke. Okay.

We are back to going around the room. It is
yours, Kay.

MS. WILLIAMS: Thank you, Mr. Chairman. My
concerns were authority. I know I have sent it out
over the e-mail, I have talked about it during one of
conference calls and our assistant administrator for
fisheries, Dr. Hogarth, stated that “The executive
order does not designate new sites, create new
authorities or change existing ones. Focus solely on
no take reserve, set specific targets, restructure
existing programs, supercede or ignore best available
science or federal-wide, state or local programs.”

So in reading the document, of course that
brings concerns in my end of whether or not I could
endorse it. I am not certain what is going to happen
with this report once we sign off on it, who is going
to use it, how it is going to be used.

I was concerned with some of the things that
we had as far as definition of bolded terms. I had
concerns over funding, what happens to the MPA or
marine managed areas that have already been set up because if we say they don't fit into our national system, does that mean that they are going to go away from our national program.

I heard some very interesting discussion today, a lot of what I could support, but I wasn't very clear on and that is why I know we have to be very careful once this document leaves that we can explain, as much as possible to the public, what our intentions are.

So to say whether or not if I could endorse this today? Probably not. Tomorrow? Maybe yes. I still need to hear some more discussions in where we are going and how it is going to affect all of the work that we have already done and the authority that we may or may not have. Thank you.

DR. BROMLEY: Okay. Good.

Bob Zales.

MR. ZALES: I would like to say, too, and I think I made this statement at the very first meeting, I have been concerned about different entities I guess at times it really didn't seem wanted this committee to
succeed. And like some other statements that have been made so far, I believe that we -- I don't know if we have succeeded a hundred percent, but I think that we are well on our way. I think that we have done a good job and I am pleased at how we have kind of come together as a group here.

Even though we still have a wide variety of concerns, I think we have come an extremely long way and I think the document is well on its way to being a productive document and hopefully one that will give some good advice to the two secretaries. I am not sure I can -- like Kay, I am not sure I could sign off right now, but I hope to be able to before this meeting ends Thursday.

One of my concerns, obviously, is access and use, which I think we are well on our way to solving that problem. The other one is we get back to the 11 to 11 vote. I still have some concerns in this document about the lack of recognition of the recreational fisheries that will be involved in these MPA's and involved in not only, hopefully, talking about creating some of them, but also in how they are used
and how they are enforced.

Pretty much everything that the people before me have stated that are problems, I agree with that and I think that we all are working trying to get over those and be able to come to a reasonable consensus. And hopefully, we can get to the point to where a minority report will not have to be filed and there can be some kind of comment in the document to move it forward. And whoever survives on this committee to go into the next and whoever the new people may or may not be, hopefully we will be able to provide them a good framework and a baseline to move forward with this.

I also -- because I brought this up before and I brought it up -- which Kay has heard me at times in the council process, fishermen and people that are on the water are easy targets and they are usually blamed for problems and they are kind of looked at as an easy fix when you take them out to solve problems.

But the problems that we have with our oceans and our resources, I think, are probably more so impacted by development. And I have serious problems with that and I have serious problems with it seems to
be people are concerned with it, but nobody ever wants
to do anything. And the council process, I guess they
don't have the authority to play with it.

I am sure we don't have the authority to play
with it because we are an advisory group, but I think
that message needs to be sent to people. And a lot of
the complaints and the objectives or objections that
different organizations have with fishermen and people
on the water I think at times are misdirected. It
probably should be more focused on what I would
consider to be the key problem is that the source is
where pollution comes in.

And it is like I have stated, and I guess I
have said this so many time, the Madison-Swanson area,
regardless of what you do in federal waters if you don't
have something compatible in the state and local areas,
it is not going to do any good. And if you eliminate a
fisherman from state waters, but you don't eliminate
runoff and you don't eliminate and fix the water quality
so that the resources can drive and get back to where
they once were, where we would like to see them, you
are not going to solve the problem. So that is kind of
DR. BROMLEY: Thank you very much.

David.

MR. BENTON: Thank you, Mr. Chairman. While I was sitting here, I was trying to organize my thoughts in some kind of logical order and failed miserably, I think, because of the lateness of the day.

Right now I guess I am of the same mind as a lot of the other speakers, which is if you asked me to vote on this document today, I would say I could not support it. I don't think that the issues are irresolvable. I think that there are some issues though. And I wanted -- and so here is the issues as I have tried to categorize them.

The first order for me is sort of the access related issues. We made some good strides there this afternoon, but there is other issues that are related to that that we heard about from the panel that we haven't touched on yet. They are not, in and of themselves, going to require huge amounts of writing, but I think they are important pieces of the puzzle.

And that has to do with the notion that -- of
having a clear set of goals and a purpose and an identification of a problem. Why the MPA is put there. That is why we put from the panel with Bobbi and Bob this morning. Coupled with that is the notion of having some kind of an information base from which, then, you can judge the success or lack of success or the effectiveness or lack of effectiveness of the MPA designation. Is it meeting its goal. Is it addressing the problem or not. Those kinds of pieces, I think, are going to be very important if we are going to have a system, composed of individual MPA's, that the public is going to be able to buy into. They are going to have to see that there is a reason and there is a way of judging effectiveness and a way, maybe, that some day in the future if they are excluded from that area, that they can get back in there. I think that is going to be really important. I think we can address it, but I think we haven't yet.

The second one is one of those four issues that are in the memo, which is something that Dr.
Pereyra has brought up several times, and a number of others, and that is the relationship of the designation and mitigation measures and management of the MPA to social and economic costs and how you evaluate that up-front before you do the designation and how you look at those issues as you implement management measures for an MPA. I think we have to address those. Again, I don't think that takes a lot of drafting. I do think it is a very important component of what we are talking about here.

The third one is in the document, we place a very strong emphasis on a regional process. And I am a big supporter of that. I think that notion of using local and regional existing authorities and entities to the extent we can and having a very transparent information-driven system of identification, designation and implementation for these MPA's, as part of the national system, is key. In fact, I think it is the thing that makes it work. If it isn't there in a good, strong understandable kind of process, then we have not done our job.

And right now in the document the whole area
that might qualify -- of federal sites that might qualify skirt that process. They are exempted from that process. They go straight from go all the way back around and they collect 200 bucks. And I don't think that that is a good way to have this system built. The one is very important to me.

The last two. I, too, have identified the authority as an issue. I won't speak to that, others have. And then there is the issue of harm, which I recognize as new only in the sense that we haven't really dealt with it, although we have the word "harm" or "nonharmful" used in the criteria in our document, and in the executive order, federal agencies are charged, if an MPA is designated, to minimize harm.

I don't think we can define that here. I think that may be one of those issues that goes on your list, but the problem that I see is that we need to look at the process to see what the implications of not having -- not understanding what harm means. Have we got it covered in the process so there is an adequate way for all the public to discuss that, evaluate social and economic costs, what it means in terms of denial of
access or not in a way for the process to address that problem. I am not convinced, yet, that we have done that. Those are the issue areas that I recognize, Mr. Chairman.

DR. BROMLEY: Thank you very much.

Mel?

MR. MOON: Well, I am hopeful that we could reach consensus. I know I will vote for the synthesis document as it is written now. When I started this process, the idea of having 33 people from this kind of diversity, I just didn't think it could be done, and now having gone through this two years of discussing and having what I would say is witness to people giving speeches and nobody listening, I think we have changed. I think when people talk, we are listening to one another and we should compliment each other for making that jump.

In the executive committee, we had some discussions about what is going to happen here and I was still hopeful, at that time, that we wouldn't have this kind of break, but we did know that there was going to have to be some discussions, potentially, on
plan B and plan C and maybe even plan D. So my guess
is that we are probably -- I am not expecting
consensus, but I think we are at plan B.

We are going to have to -- I would encourage
everybody to continue to search for the consensus that
we have amongst us. A lot of valuable input has went
into this plan. And also I would encourage us to put
less in. I think we have put a lot in. I think it is
time to do some trimming in a less is better type of
approach, which -- because I think we are at the
greater good level. I mean, that is something we just
have got to put together.

The other key document that we haven't talked
about at all has to deal with the executive summary and
I think it is going to be important to have a document
that is quick to read and hits the point on what our
recommendations are; otherwise, I think we are going to
lose some of our public and they are going to -- I
mean, a lot of good stuff is in there, but they are not
going to get to it. So I would encourage us to keep
that close on the back burner, but ready to fire up
pretty soon.
I agree, also, with the lack of reference to the Ocean Commission's recommendation. It seems that we should -- there was a lot of good work put into that document and that we could gain by having some linkages between what that document represented and what we are doing as well.

I also agree that we may want to put in an emphasis of the MPA's as a tool. I know there is a strong desire to represent how they work so well, but it becomes the objective. So we need to be careful about how we describe how that is going to be approached and keep it just as what it is, as a tool.

And lastly, I had a concern about the access discussions that we have been having. From a tribal perspective, I am a little concerned about making sure that we have the understanding of the tribal standing as an entry -- a right of entry versus a cultural mixing as we tend to have that problem of categorizing tribes into a cultural picture and reducing that to subsistence levels.

So when we are talking access and we are dealing with the tribe as a government, we need to make
sure that that is preserved. And I am hopeful that
that carries out in most parts of the document as it
stands. That is it.

DR. BROMLEY: Thank you.

Robert Bendick.

MR. BENDICK: Thank you. I am not happy with
everything in the document, but if I had to vote today,
I would vote in favor of it. Marine protected areas
are not a panacea. I think as Bob Zales has said very
well, that they are affected by all sorts of other
things and we need to think of them as part of a system
of protection and governance of the coastal areas of
this country and other parts of those -- that system
are failing today and we need to perhaps use marine
protected areas as a lever to address some of the other
problems.

Having said that, I think particularly
important in the report is the system of governance and
decision-making that we proposed. I have seen time and
time again, over the last 30 years, where people, at
the regional and local level, in a good decision-making
process with some science support, with public
participation and with the right incentives, can do a lot better in solving difficult problems than can someone handing down those answers from above. And I think that is what we forged. That is the core of what we are trying to do and I think we should support that and be pleased in that support.

There are a couple of questions. On the question of authority, I think asking a question of what authorities exist today is valid, but I would say if we don't have the authority to implement -- not we, but if the government or whoever doesn't have authority to implement all our recommendations, we should ask for it. We should seek that it be done to implement the reports.

Similarly, as John Ogden said, incentives are particularly important here and we need to ask for, and not just hope for, incentives that will make the system of governance that we are talking about operate in the real world and the real hope that I have is that we can come out of this discussion with a coalition that can improve the system of coastal governance as part of the larger system of environmental governance in our
country in the real world and not just on a piece of paper. Thanks.

DR. BROMLEY: Thank you, Bob.

Barbara Stevenson.

MS. STEVENSON: Well, I was quite surprised when I read the current draft that I was almost there and that is an amazing situation, but there are a couple of issues. I came in with one issue and now I have three.

DR. BROMLEY: You should have stopped after you just read it, Barbara.

MS. STEVENSON: The definition of access is obviously extremely important to me and I wouldn't sign off to anything until that was acceptable. I am totally confused as to whether the things in your letter are in or out and whether all the people to date who have commented that they would support the inclusion or not inclusion of those. So I obviously can't say whether -- what I would support until I knew whether they were in or out and when that discussion occurs, there are some things there that I don't understand. So that is one part.
The one issue that I came in with has to do with objective number 2, which is, “Conserving, enhancing, and/or restoring representative example of the nation's marine ecosystems and habitats.” That part I have no problem with. I have no problem with the “as well as unique biophysical and geological features.” The part that I have a problem with is, “in all geographic regions.”

The end result might be the same, but if you have that “in all geographic regions,” we have to define what geographic regions are, what we mean, and then we have to define, since we say we are going to do all these in all these geographic regions, what is our definition of a marine ecosystem as a different one than another one and what is the definition of different habitats. So I think those of you who want them can get to the same place if we exclude these four words and I can support the current document.

DR. BROMLEY: That is wonderfully precise and helpful, Barbara. Thank you. We know exactly what the issues are. Thanks.

Gil.
MR. RADONSKI: I learned a lot in the 25 years that I spent in Washington, D.C. watching the bureaucracy go through things like this. I served on a number of advisory committees and saw them accomplish things that seemed impossible. I think we are doing pretty well. I think we have to recognize the -- whatever document we send forward is going to be looked at by two secretaries, the secretary of commerce and the secretary of interior.

Now the secretary of interior -- the Department of Interior has a long history of dealing with cultural renewable and non-renewable resources and how they interact with users. So we are not going to be telling them a whole lot new. We are going to have to convince them of things. So I think that is the reality of the issue.

To have a document move forward, several people around the table have identified that you have to have ownership of the document. If this document goes forward and we all walk out of here and not have a feeling that we have ownership in that document, it is not going to last very long. I mean, everybody knows
how you can work within the system lobbying, et cetera, to undermine issues.

So I mean, we have got to walk away with ownership. I think that is possible and I think the Chairman pointed it out when he was having a discussion I think it was with Mike Nussman's comment. And we are not dealing with a document here, we are dealing with two documents. And I think the solution lies in a document that is what we call the last version number 5, the synthesis document.

We can point out a lot of things, but we can overcome its shortcomings with the transmittal letter that goes to the secretaries pointing out the things that we think are important but did not address. So I don't think we have an insurmountable problem.

I -- as you know from the discussions, I have very strong feelings about access and I think I am very concerned with due process and telling people that they cannot access a common property resource. That is a very, very big issue with me and until I get some satisfaction, I would not sign off on the document, but I can live with, if we do not come to a consensus on
that, in a transmittal letter, that we dealt with it and it needs further attention in future advisory committee efforts. That is one way to go.

So the point I want to make is that we are not dealing with one document, a consensus. We have to identify -- in a very positive sense, we have to identify what we have done and in the cover letter saying we have done what we can in two years and we have not reached agreement on other issues that are vitally important. Thank you.

DR. BROMLEY: Thank you.

Okay. George.

MR. LAPOINTE: Thank you, Mr. Chairman. I will be brief. It is my intention to sign off on this document. We have done a great amount of work on access and I understand there is still some work to be done on that, but I think we are getting closer. The bevy of definitions that were put forward, I think we can work with. I was struggling with rights and privileges and Max brought me back to rights because I was going towards privilege for the very reason Mel mentioned. So that is a critical issue, the entire
access issue and that definition, but again, I think we can get there.

The -- I share Gil's not concern, but view that the mailbox issues, the four we have right now, should be acknowledged in one of two ways. One is if we can discuss them and put them to bed in the document, which means I still believe in Santa Claus I think, but I mean, it is worth a try.

(Laughter.)

MR. LAPOINTE: Or in the transmittal letter to talk about those things that we need to do as we move forward. And one of the reasons I am comfortable with signing off, again, given those provisos, is again, what I said earlier is that this is not the final goal at marine protected areas in the two offices. We are providing a springboard for further action and so we can carry on. And I think that should give everybody the confidence that we can continue to work on those issues that are hanging for them still.

DR. BROMLEY: Thank you, George.

Tony.

DR. CHATWIN: Thank you, Mr. Chairman. I
think I share the view of my colleagues that -- and
agree that we have come a long way. I remember how we
struggled to understand what our mandate actually was
and so we struggled through many, many different
aspects of the work that we have been doing. And I,
too, have felt it an enriching experience to see a lot
of different people come to the table with their own
set of values and through this -- the work of this
committee, identify some common values, some values
that we all share.

And I strongly believe that this document
contains or reflects those values and that goes to the
participatory -- the importance of participation and
the importance of setting goals and objectives through
a participatory process and monitoring the performance
of MPA's towards those goals and objectives and then
adapting the information that comes out of that
monitoring.

So the way I hear the comments around the
table, I haven't heard much criticism, and we are not
all the way around, but of what is actually in the
document right now. I have heard a lot of concern
about what is not in the document and I ask you all to remember that we struggled with a lot of different things and a lot of things were put in the document, taken out of the document. Tone was very different. We have toned down the tone, we have removed some big chunks of introduction and the conclusions because it wasn't to the liking of everybody all with the objectives of honoring those common values.

And so I am prepared to support the document as it is written. I will make the statement that I think access is extremely important. It is important for what it says and it is important for what it doesn't say. And I, too, look forward to resolving that issue before we take a vote.

And I would say that if do go down the road of the two documents, one letter addressing things that we haven't addressed, I think that there are a lot of things in this executive order that we haven't addressed that are of extreme importance to the conservation community.

And depending how the access discussions go, I mean, it has direct relevance to the levels of
protection of different MPA's and gaps in those levels, which were a part of our charge and we haven't addressed because they went -- they didn't fit into those common values that we have reached. So I am prepared to support the document that reflects its current state.

DR. BROMLEY: Thank you.

Wally.

DR. PEREYRA: Thank you, Mr. Chairman. I will try to be brief also, although I do have a couple of comments that I want to make. First, I did pass along to everyone my comments in an e-mail on the 13th of April and my comments were somewhat inclusive in terms of their totality as to what I felt was missing and some areas of concern I had and I first would like to thank the Committee that was doing the drafting, and so forth, for taking a number of my comments into consideration.

In particular, the first concern I had was the statement of need, the preamble to our report, in which I felt there was an overemphasis on problems and not enough recognition that there have been improvements and there are some areas, which -- where actually
things are quite decent at the present time. And that
section has been sort of put in a neutral camp. Maybe
it doesn't have as much passion on one side, but from my
perspective, it did have enough passion on the other
side. So now it is sort of passionless, but it is
successful.

(Laughter.)

DR. BROMLEY: A happy marriage anyway, huh?

(Laughter.)

DR. PEREYRA: Exactly. So I mean, we have
been to a counselor and now --

DR. BROMLEY: Yes, right.

DR. PEREYRA: The second area in the report
that gave me concern was the advocacy side. I felt
that our charge, and it reflects my view of why we are
here, was largely to make recommendations on a national
system and not be as focused as we have been on some of
the aspects of MPA's that speak to their importance and
so forth.

That as it may be, I recognize that the MPA
Center wanted some thinking on those areas and so they
are in our documents and while if I were to be the
drafter of the document, I might choose to de-emphasize it, that as it may be, I would be willing to go along with what is in there.

    I do think, though, that there is a need for -- and still is a need to speak a little more about the access issue, the use issue, the sustainability issue, that aspect of it. Certainly conservation is important as part of the sustainability equation, but there is the other side and I think that has to provide some balance.

    But the last area, which is the one that I probably have the most passion for at the present time in terms of report, and that is to do with the process itself. I see the process flowing from a problem through a participatory process that looks at all the alternatives to solving the problem and MPA's being one of the tools in our tool basket, our toolbox.

    The report, because it is so strong in the advocacy side of MPA's, tends to either downplay or outright throw out the other tools and not give them, I think, proper consideration. I think they need to be in this process. And that also is consistent with the
whole federal process underneath that one has to go through that. And I think that we need to make our report consistent with what is really the reality of how this will proceed in the larger environment.

That is missing and I made a number of specific recommendations in my -- it wasn't a redraft, but in the e-mail that I sent, the attachment, all of those recommendations were not included. I appreciate the reason why. It is an issue that probably hadn't had a lot of debate at the Committee level or subcommittee level and for that reason, it was deemed to leave it out at the present time. I would hope that we might be able to get to that. Without that, I will have difficulty signing off on the report in its present form, even though I appreciate the changes that have been made.

And the last comment I wanted to make has to do with the suggestion that maybe we would have, in a conclusion section, some sort of a listing of the areas that we were not able to reach compromise and so forth. From a professional standpoint, that might be a good way to go to get it included and so forth, but I am
concerned in doing that that they are not going to be properly weighted in the report and I would not be supportive of that sort of approach.

I would rather have us go through and work this report to the point where we have the minimal level of acceptance necessary for us to get a consensus of all the members of the Committee and I appreciate very much all the efforts that have gone into this. Thank you.

DR. BROMLEY: Thank you.

Michael.

DR. CRUICKSHANK: Thank you, Mr. Chairman. I have four concerns, which I know might put me on the other side of the table, but let me go through them. We are required by the executive order to provide recommendations to the secretaries and as it stands, we have a whole lot of recommendations throughout the report itself. I would think that we could probably have selected part of the report, perhaps conclusions and recommendations, specifically the recommendations that we are putting forward for action by the secretaries.
And the second one is the issue of mineral and energy resources. And the definition of an MPA in the executive order, again, they talk about all the natural and cultural resources therein. And to me, all the natural resources includes oil and gas, energy and everything else. And we have no approach to defining that we are not going to be talking about them or that we are going to be talking about them.

And so they are already in place for many authorities handling or managing these resources than there are within the Department of Interior. And it is my understanding that the Department or the NMS, specifically, is going to weight our recommendations as to whether we want to pursue those or not. The present leasing areas involved are actually a major part of the EEZ and far outweigh any of the areas, combined areas, I believe, in the ocean of the U.S.

The other thing is that the definition of, you know, natural resources I guess is mentioned already, but there are places throughout the document, which if we do address this issue on minerals and energy, we have to then go back and revise, perhaps, all of our
definitions of the resources. We have to define what
natural resource means in terms of this document in
terms of our recommendation.

And then the last one I have a problem --
care about is the NEPA approach under this document
prepared. It becomes a national system for MPA’s. It
is a national system that automatically falls under
NEPA and that in addition, an MPA must therefore go
through the process, it is my understanding, and we
should say something about that because we have totally
avoided addressing NEPA.

DR. BROMLEY: Do you mind if I ask a
clarifying question, Michael. NEPA talks about major
federal actions as distinct from national and I think
we have tried really hard to keep national separate
from federal, but this is just a point of clarification
on my part, which --

DR. CRUICKSHANK: I have always considered
national and federal to be related.

DR. BROMLEY: Yes, they are two separate
things. The federal government does stuff. This is
NEPA.
DR. CRUICKSHANK: NEPA. Right. NEPA is required to --

DR. BROMLEY: Take federal actions.

DR. CRUICKSHANK: Federal actions. Yes.

Okay. So making -- having the Interior or NOAA bring an MPA into the national system is truly a federal action. And so we have to look at that issue.

MR. URAVITCH: Right. At present the way we intend to handle that is there -- we believe there is a NEPA requirement in terms of the national system. We are talking to the NEPA specialists in commerce and shortly interior to see what the right mechanism is to do that and then at what level.

But then specific MPA's within that system are going to have to follow their own NEPA requirements when they are established or when management plans are modified or things of that nature. So NEPA will apply to the national system and how we are putting the system together, but then it will apply to the individual MPA's based on that agency's actions with those MPA's.

DR. CRUICKSHANK: Whether it is in the OCS or
the territory waters.

MR. URAVITCH: Correct. And comparably, any
state authorities that are similar.

DR. BROMLEY: I am sorry to interrupt you,
Michael, but I just thought a clarification was --

DR. CRUICKSHANK: And the report is very full
and I think that a lot of it is issues that could be
condensed in the executive report. It needs to be more
succinct, but it is certainly -- I am very, very proud
to have been a member of the effort here. I think it
is a very, very fine and as far as signing off on it, I
think it can be juggled. I would certainly be prepared
to sign off on it given that these efforts -- this
issues that I have are addressed as well. And maybe I
ask here also, I am not sure what happens to these
four --

DR. BROMLEY: We will talk about that. We
will talk about that.

DR. CRUICKSHANK: Thank you.

DR. BROMLEY: Thank you very much, Michael.

It is 10 until 5:00. I plan to keep going.

So Rod, you are on.
DR. FUJITA: Thank you, Mr. Chairman. I can support this draft report as written. I think we have addressed a lot of very important issues thoroughly and well, including the issues of access and use, with our compromised language offered by the subcommittee on access.

I should say, though, that I would be inclined not to support this report if additional language on access crept in, which would cut against precautionary principle, which would limit the ability of resource managers to address punitive threats proactively and prevent damage in a proactive way.

I think with respect to authority, I like Max’s suggestion that we request an analysis of the existing authority, whether it is sufficient to implement our recommendations, and if not, we ask for that authority to be established.

And with respect to the remaining unresolved issues in your memo, social and economic cost benefit, the least cost alternative, the definition of harm, in my mind, those are very substantive and large issues and while I think that they are resolvable, I have my
doubts as to whether we could resolve them in the time we have left in this meeting.

DR. BROMLEY: Thank you.

Eric Gilman.

MR. GILMAN: Thank you. My only substantive issue with the current draft of the document is the amendment that was made today to objective 4, which I believe will be interpreted in its current wording to imply that we are suggesting an objective of the national system of MPA's is to promote access. I think that needs to be clarified over the next two days.

My one suggestion for improving organization is to echo the recommendations by Michael to include an executive summary that would state precisely and clearly the recommendations we are making to the Departments of Commerce and Interior. I don't want to elaborate on that.

Other than that, I just quickly jotted down eight of the remaining recommendations that are in the document that are important to me. We are recommending a precautionary approach towards preventing problems from occurring. We recommend from a single-species
ecosystem-based focus to just providing equitable
treatment and opportunity for involvement in the
process by all groups with an interest in marine
resources through a regional bottom-up process.

We recognize that there are multiple purposes
for establishing and managing a system of MPA's; in
short, MPA's are more than just fishing. We recommend
promoting the sharing of resources through enhanced
communication and collaboration between entities
responsible for individual MPA's and what we call
institutional networking.

We recognize that MPA's are one of many
strategies for addressing existing or potential future
problems, which could potentially exacerbate problems
in some situations. Just sort of temporal and spatial
displacement of effort. In short, MPA's are not a
panacea.

One comment that I had earlier was to
institute regional and international collaborations to
manage shared ecosystems and highly migratory species
through transboundary MPA's. And finally, that there
needs to be a mechanism for financial sustainability
for the implementation of the system.

DR. BROMLEY: Thank you very much.

Jim.

DR. RAY: My lead off comment is I am pleased and quite amazed that we have reached the level of consensus we have so far. I think the version 5 addressed a lot of the concerns I had in previous versions. I think we are almost there. I am not ready to commit on my vote yet.

I was doing good until about 15 minutes ago and then when we started talking about a qualifier letter that has things in it that we can't agree to in the report, I have a big problem with that. I would not sign off on that. The report should be standalone. The transmittal letter should just be a very high level executive summary reflecting what we agreed to in the Committee.

DR. BROMLEY: No way, Jim, would I write such a letter.

DR. RAY: To my interest group, access is a key issue and it is time we handle that. That would make a big difference on whether or not I would sign
off on the report.

Just a couple of just general comments. I think the issue of MPA's in connection with biodiversity, as a biologist, I have absolutely no problem with that. As a concept to public user groups, I think that is going to require a lot of education for that one to really succeed.

I have some minor concerns over the way we word the lasting protection as far as indefinite meaning the intent to be determinant. That carries a lot of legal baggage with it the way it will be used and misused in the future. So I know Mark won't want to hear this, but we probably ought to just talk about that a little bit again because I think that could be confused.

I think one of the key issues for the success of a national system is going to be the whole issue of incentives and funding. Unfortunately, I think our recommendations to the secretaries for an increased level of funding, that sounds good, but they are still in the awkward position because it is hard for them to go recommend to Congress that their funding be raised.
So somehow or other, if there is a consensus in this committee, if funding is a part of the issue for this to succeed, then we have to find a way, from this report, for that message to get to Congress from this committee because the secretaries are in an awkward position to make those recommendations themselves.

The -- I have some concerns that I think we still should discuss with regards some of the prescriptive language that are used in the conclusion section on page 17, line 30, et sequence. It is difficult -- when you get that prescriptive, you start treading on dangerous territory as far as people's willingness to accept that.

I think that covers most of my high level ones now and I think the real key one for me now is coming back to the issue of access and how we handle that issue and also how we handle a couple of the issues in the four items in your cover letter. I have -- obviously I have a problem with one of those. That is all I have got for right now.

DR. BROMLEY: Thank you.
Dolly.

DR. GARZA: Thank you, Mr. Chair, and I really am grateful we started on that side and sorry you were three.

MR. NUSSMAN: You should be.

DR. GARZA: I only have three fairly minor points and then just sort of my gut feel for it. We did, and I do want to apologize to Bonnie and to Rod and to Lelei because we had some discussion that everybody didn’t see on traditional ecological knowledge, local knowledge. And there are a number of terms in here and I think that we need to summarize them to the -- I think the two short ones that we -- I think we agreed to, which was customary and local knowledge. And so we just need that -- to cut it down to that and then keep moving.

This is when I travel. I have been traveling since the last meeting that we had and I have not spent more than four days in my hometown. And so I have to do some catchup work in terms of looking at this report.

The other thing was stewardship. And I do
understand that. We took some of the passion out and now we are sort of passionless, but in stewardship, stewardship doesn't happen unless there is passion. And so I need to see the word “commitment” back in there. I did fight for it for a couple of meetings, but if individuals and groups don't commit to a stewardship in an area, they are not going to go to the meeting and they are going to do nothing but complain. This is what I do as part of my job. And so we need to get that word back in I think. And then also -- so that is on page 14, line 34.

Page 16, line 20 we talk about power sharing and I think in parenthesis we need to put “example given co-management.” That is a process that can work. It doesn't have to be the process that works all the time, but co-management is being used in Alaska. If you talk to the -- our senators, the national senators and representatives, they like that terminology because it provides for local participation and local commitment to processes. So I would suggest we put that in as an example, not necessarily as the way that it has to be.
And then beyond that, just my general feel, I mean, I look at this document and, you know, it does require -- at almost all levels, it will require state participation, perhaps regional advisory council participation, MPA region participation. And I am thinking of an example of when exactly would it be used. And it often may not be depending on the state.

In Alaska, I can count on it not being used at all until we have some change in government. And so this has sort of been a ride for me because I don't imagine us using it because it requires a state commitment and the state suspended its MPA committee that it created. It put it on ice two years ago and I don't expect it to come off ice for quite some time.

But I do see, in some senses, where it could be used by communities who are trying to protect and not exclude all uses, but protect sensitive areas. That may require some changes in use patterns, but will still provide some level of opportunity while providing some important levels of protection. And those were primarily with marine mammals. One is with seal pupping, the other one is with Beluga.
And I see this as a step where this is actually a proactive step providing levels of protection so that we don't reach a level of ESA threatened listings, ESA endangered listings where we have mandated protections under critical habitat. So I see this as a step of let's provide some protections now and we are never going to get to that horrible step that Alaska has had to face with sea lions and possibly with sea otters.

And so I do -- whoever said it earlier, I mean, we need to remember this is a tool in the toolbox that on occasion will be used, but isn't required of everyone and in that sense, I do support the report as it is written. Thank you.

DR. BROMLEY: Thank you.

Bonnie, you get the last word.

DR. MCCAY: Well, I don't have very much to say. I think all I will add to this is that I think in talking about whether the creation of a national system would call into play NEPA requirements and so on makes me think that maybe we don't have such a big problem with the costs and benefits and alternatives questions
that Wally brought up because those are inherently there and perhaps we could handle it by making some more explicit reference to these regulatory requirements. I mean, not just NEPA, but RFA and others that may -- you know, do require looking at the alternatives and the costs and benefits.

So, you know, it is something we might talk about. It may be that we already have that there. So otherwise I am in favor of the document. I thank Dolly for reminding us that we have to clean up some of that language, but also for the point that this also can be a tool for communities, for various groups that can be much more proactive with this kind of support.

DR. BROMLEY: Thank you very much. Okay.

Here is my hope. Here is the way I see the landscape. We have -- a number of you have expressed concern about access, the issues of access and use. We have a subcommittee created empowered to address that issue and come back to us at 8:00 in the morning.

DR. MCCAY: Definition of access.

DR. BROMLEY: Definition of access. Thank you. Okay. The ex officios are asked that in the
morning I would like to give you two or three minutes
to tell us your sense as to where we are. Is that
okay, Brian, Larry?

MR. MALONEY: I mean, I think I am ready to do
it right now. So it will be a short statement.

DR. BROMLEY: Short statement. We like those.

MR. MALONEY: Okay. You know, since this
report is going to be going to my boss, the Secretary
of the Interior Gail Norton, for her consideration and
her decision, I don't think it is appropriate, it is
probably a violation of the principles of the Federal
Advisory Committee Act, to comment directly on the
substance of the report.

I do feel safe in saying that the Secretary of
the Department of the Interior was very appreciative of
all your hard work, your civility and your willingness
to work together to put together a quality product.
Now I believe you have got -- to use a sports metaphor,
I think you have got the ball on the three yard line
and I encourage you to go ahead because there is, you
know, glory ahead.

(Laughter.)
DR. BROMLEY: Well, when we came this morning, I thought we were in a two-minute drill, but I am happy to learn the ball is on the three yard line now. Tom, did you have equal reticence?

MR. KITSOS: I am reminded of a statement that the former — the late, but very prestigious member of Congress, Mo Udahl, said, “I think everything that possibly could have been said on this subject has been said it is just that not everybody has said it.”

(Laughter.)

MR. KITSOS: This has been a fascinating experience for me my first time out filling in for Mary. Having spent three years with the Ocean Commission and going to meetings very similar to this, I am ready to go home.

(Laughter.)

MR. KITSOS: Or at least adjourn for the night.

DR. BROMLEY: Brian, can you top that?

DR. MELZIAN: I think I can.

(Laughter.)

DR. MELZIAN: I would like to commend the
Committee, especially the executive committee, for all the hard work in putting Humpty-Dumpty together. That is not an easy task. Having said that, backing up what Mel had recommended, since it is likely that I will be the one that briefs the assistant administrator and maybe the administrator on this issue in the future, it would be very helpful to have a very strong and concise executive summary to this document with a list of concrete recommendations and perhaps action items for the federal agency, in addition to the Department of Interior and Department of Commerce, because EPA is listed in the executive order. It is not just DOI, Department of Interior, Department of Commerce.

In the model of the U.S. Commission on Ocean Policy's report they had 212 discreet activities or recommendations that we in our agency look at each one of them -- I did -- and came up with a spreadsheet about how our agency would respond. And so that can be very helpful and very powerful. Next steps, authorities, incentives, funding. Those kinds of information are very useful to us.

And then lastly, perhaps it might be useful to
at least cite the Ocean Action Plan that the CEQ
mentioned at our last meeting. They will be looking
for that and that is a direct linkage to the White
House. Thank you.

Let me see, by way of summary, where we are. We will
have a definition of access in the morning I believe.
One of the issues that was in the memo that was -- that
needed to be addressed concerned authorities and Max
Peterson, perhaps with Dave Benton's involvement as
well -- I can't be sure, I have got a stack of paper
here -- have addressed the issue of authority, some
language. We are not going to introduce that tonight.
Max, thank you for doing it. I will be happy to
distribute it to everybody tonight if that would be
your hope.

MR. PETERSON: Thank you.

DR. BROMLEY: Okay. So we have some escape
language maybe, some treatment of the issue of
authority, yes, and if you could get that started
around, we will bring that up in the morning.

The last issue is what to do with the serious
grievances. And let me say that I had no intention of
cwriting a cover letter or a transmittal -- if indeed I
am the one that has to write this thing, I am not
sure -- containing, Wally, these things. Okay. Or
whoever. Jim was concerned about it too. That we
should not do. All right.

What I would hope is that the grievances that
we have heard around the table this afternoon, some of
them speak to access, some of them speak to stuff that
we still have to work out. It would be marvelous, it
seems to me, if we could have a section in our report
called “Unresolved Issues,” which may be three or four
of the ones that showed up in my May memo, it could be
other things that we have heard around the table.

And in that spirit, I would like to ask those
who raised those issues, those serious issues that have
not yet been addressed, to do us the favor of forming
themselves into a committee that would report back to
us in the morning with some explicit language about
what it is that you would like to say in that section
on unresolved issues that you believe everybody could
sign off on.
So in a sense, this is language that does not make recommendations, it does not state positions, but it says we feel strongly that these issues have not been addressed and they must be addressed in the next go around. And that will give us a sense as to what can be put in the document. And then if there are things that are so difficult to get agreement on, then those become the topics of a minority sort of statement. And I guess I am asking those of you who have grievances, can you give us some language in the morning that would command wide assent? Mike and then Dave.

MR. NUSSMAN: Mr. Chairman, I am not sure if I have grievances or not and perhaps won’t until tomorrow afternoon. I know I have some issues that I want to understand more about, I want to hear further discussion about. And I think in a sense, perhaps, we are -- I don’t want to, you know, agree to provide language or at least in not providing language, lose my opportunity to provide language if, in fact, after some discussion we can’t come to some accommodation. So in a sense, I am -- I understand what you are trying to do.
DR. BROMLEY: I want to know precisely in the
document the things that have not been sufficiently
addressed in the eyes of some of our members without
forcing us to take a position on them, other than to
agree that we have not discussed them.

MR. NUSSMAN: No, I understand what you are
trying to do, but to the extent we come in tomorrow and
agree to find issues we can't address, I can guarantee
you during the course of the day, we are not going to
come to any agreement on those five issues. So my
concern is I am not sure it is the right timing on
that. But let me think about it a little bit.

DR. BROMLEY: Yes, David Benton and then
Wally.

MR. BENTON: Thank you, Mr. Chairman. I guess
maybe I am sort of perplexed like Mike a bit. I tried
to preface my comments that these were important
issues, but I thought that they were not irreconcilable
and things that actually I sort of thought we could
deal with and get maybe not all of them, but maybe more
of them dealt with and actually agreed to in the
document.
It seems to me that we should make that effort first and then if, you know, as you have said, if we can't reach agreement, then we should have some vehicle for dealing with that and maybe that is the same kind of thing that Mike is talking about, but I really think we should -- I am kind of hoping that we are going to have the opportunity to go through and actually try and work out a few of these things because as -- like the NEPA issue that just was discussed a few moments ago, you know, given the clarification we got, I don't think that is a big deal to put a reference and a way to resolve that issue in the document.

So are you -- I guess my question then back to you is, is there going to be an opportunity for us to go through systematically and sort of try and deal with some of these items --

DR. BROMLEY: Yes.

MR. BENTON: -- and then go to where you are going?

DR. BROMLEY: That is what I would like to have it included in that section, but let me turn to Wally.
DR. PEREYRA: Mr. Chairman, I guess I am a little perplexed because that is exactly what I did in my April 13 e-mail. I went through the document and this particular issue regarding, you know, the process, the searching for the least cost alternative.

DR. BROMLEY: Right.

DR. PEREYRA: That sort of raises the essence of the NEPA process. I did that and went through, item by item, the various areas of the document where I felt that some wording to that effect was appropriate to give it substance.

I think just stating in some place we are going to follow the NEPA process where appropriate, it doesn't go far enough because I think the board needs to reflect the fact that we believe that this is a process that is worth following, whether it is at the federal level or at a tribal level or at a state level or whatever, that in the process of gaining acceptance, that that is necessary.

DR. BROMLEY: Wally, it seems to me that to ask this committee to agree that the valuation of economic and social benefits and cost before the
establishment of an MPA, it strikes me as a new and a
big issue, but I could easily see, Wally, in this thing
I am asking for a statement that says there are members
of the Committee who believe that this is an important
issue that needs to be discussed further. That puts it
in a different category than saying no MPA can be
established without a social and economic benefit cost
analysis. Okay. So what I am asking for is -- that is
why it got put to the side.

DR. PEREYRA: I didn't say that it had to be a
social and economic benefit cost analysis. I mean,
maybe there is --

DR. BROMLEY: But there was economic --

DR. PEREYRA: -- economic assessment.

DR. BROMLEY: -- assessment of the economic
effects or whatever the language was.

DR. PEREYRA: Benefit cost analysis would be
done at a higher level.

DR. BROMLEY: Fine. But it would be one thing
to say that there are a number of members of the
Committee who believe this is an important issue to be
addressed in the future, the role that the assessment
of benefits and cost might play in the establishment of an MPA and it needs to be addressed. That is a different kind of thing than putting in, which is I think the way you had it. Those things must be weighed before a site can be considered for an MPA.

DR. PEREYRA: I appreciate the concerns that some members of the Committee may have with that kind of language and I respect that, I respect their position. By the same token, I mean, I think I have bent over quite far to -- I am not quite to the breaking point yet, but I can feel quite a bit of strain on some of the statements regarding ecosystem connectivity and biodiversity and so forth.

I, you know, from my perspective, I think that is -- you know, it is sort of up here floating around. I don't think it really -- but and I think if that is what is needed, I think we need to find compromise throughout the report and just as we could say in that case there are, you know, a half a dozen or more committee members that feel that this is an important issue that needs to be addressed.

DR. BROMLEY: Okay. Then -- I mean, let's
just stick with this issue, Wally. Then in a sense what you are saying is that you are unable to put in here that the benefits and costs of MPA’s should be assessed. You are not able to put that in as a suggestion for future work and in a sense, you are saying for you it is a deal breaker, that if there is no assessment of economic benefits and costs of an MPA, then you can’t accept the report. Then that goes into a separate kind of thing, which is a minority report.

I am trying to figure out which things are going to survive as minority report, sticky, big deal breaker issues, and which ones we can agree on have to be addressed in the future and did not get addressed here.

DR. PEREYRA: In summary, what I am looking for is maybe a shade of grey, which is acceptable. It is not black and white in my mind and the way it is now, it has been totally, I would say, excerpt from the report. There is no inclusion of it in these various series.

DR. BROMLEY: That is right, there is not.

DR. PEREYRA: Right. And I -- that is a deal
breaker for me.

DR. BROMLEY: Okay.

DR. PEREYRA: There may be some grey language that could be inserted in various places that would be satisfactory, but at the present time, I don’t think I -- that I would be comfortable.

DR. BROMLEY: That is fine. I am not saying there can’t be deal breakers.

DR. PEREYRA: Yes.

DR. BROMLEY: It would be my hope that we can reduce those deal breakers to two or three things. And maybe this is one of them.

Dave Benton.

MR. BENTON: Well, I think --

DR. BROMLEY: Dave and then Bob, George, then Tony, Max.

MR. BENTON: I think the more important thing, Mr. Chairman, instead of debating the merits right at the moment is whether or not there is going to be an opportunity to try and resolve the issue. That is the thing. If we are not going to be allowed the opportunity to try and resolve those, that is fine.
Then let's get on with whatever it is we are going to do and maybe we can get out of here earlier.

If, on the other hand, we are going to try and do the hard work to try and resolve some of the issues that have been raised around the table, then we need to figure out a mechanism and set aside the time and do the work. I think that is -- to me, that is the issue right at the moment.

I think, you know, I am sort of like Wally. I think that you can probably come up, given the opportunity, to come up with a way of addressing the issue in the way the process is set up that we are talking about that is a no harm, no -- well, to me it is a no harm, no foul issue. I mean, it is something that you obviously have to do, but we will have that -- we can have that debate. The question is, are we going to have that opportunity.

DR. BROMLEY: Sure.

MR. BENTON: And I think you need to help us understand the course of events tomorrow in how we can be most efficient about that because tomorrow is the work day it sounds to me like. That is where I think
we are at.

DR. BROMLEY: I thought I was doing that, David. I thought I was asking the group, the individuals who have concerns about the report, to help us figure out which ones are big deals and which ones could be put into a section called unresolved issues, which could be addressed in the future because my guess is -- I haven't looked at Lauren's computer, but she has probably got lots of things. I made notes of lots of things.

Some of them could be left to the future and some of them some folks want to be worked out tomorrow, let us say, before they can decide whether or not they can support our work. And I would just like some -- two lists of these concerns so we will know the scope of what we are addressing.

MR. BENTON: Mr Chairman.

DR. BROMLEY: Yes.

MR. BENTON: Just a minor response. It seems to me, then, the burden should be upon those folks, myself included, but folks that have big ticket concerns.
DR. BROMLEY: Yes.

MR. BENTON: To come up with a proposal for how to resolve that concern and bring it here at some point and you need to tell us when.

DR. BROMLEY: Tomorrow morning.

MR. BENTON: It better not be at 8:00 a.m.

DR. BROMLEY: Tomorrow morning.

MR. BENTON: It is a little too early given the dinner tonight.

DR. BROMLEY: Okay. 8:05. That is precisely what I asked, David. I want a list. It seems to me who have the concerns should have the opportunity -- I won't call it a burden -- should have the opportunity to tell us what that list is. That is what I am asking for. So we will know the scope of what work we have to do.

Bob Bendick.

MR. BENDICK: You know, I think you have just said it. The people who have a problem have an obligation, by first thing tomorrow morning, to say what the obligation is if it is an obstacle to our moving forward. I don't think we can deal with this by
constantly changing lists of concerns. It is time for people to come forward and say what their concerns are and then we can try and deal with them one at a time in several different ways.

DR. BROMLEY: And in a sense, if I may, Bob, what I meant was which of these concerns would they be happy to have show up in the unresolved issue section of our report and which ones do they want to work hard on and maybe have them be deal breakers. That is the clarification I would like for the morning.

George is next. Who is next. Mike? Mike Nussman.

MR. NUSSMAN: I think that clarification is helpful in understanding what your plan was.

DR. BROMLEY: I am sorry I didn't articulate it well.

Max.

MR. PETERSON: I would just suggest that maybe -- I think Wally has been very helpful in several aspects of the report and I think maybe a few people that share his interest ought to convene with him and see if they can come up with something in the morning
because I do think we need something and I would certainly hope that we don't end up with six or eight unresolved issues, particularly when I think they are not that difficult to resolve.

DR. BROMLEY: Yes.

MR. PETERSON: So Wally, I think in good faith, we ought to help you -- I am already on one subcommittee.

DR. PEREYRA: I will certainly give it a good college try.

MR. PETERSON: Good.

DR. BROMLEY: That is all I ask. That would be marvelous. Okay. And then in the morning, we will start with Bonnie's committee and then we will go to this other group. We will call it the Wally group.

Rod.

DR. FUJITA: Thank you, Mr. Chairman. Just so I am clear, having heard this discussion, I am very heartened. I am willing to work with Wally and others to try to resolve the cost benefit issue if they think it can be done so. I think where we are -- in my view, we have resolved the access language issue with our
compromised language.

DR. BROMLEY: Yes. I misspoke. It is the definition.

DR. FUJITA: So that is done.

DR. BROMLEY: We have the authorities language from Max and --

DR. FUJITA: Yes. We have a proposed solution for authorities. So that is on its way.

DR. BROMLEY: Yes.

DR. FUJITA: The other two that we haven't talked about yet are defining harm and the proposal to exempt energy use. And I think that the proposal to exempt energy use we could probably deal with, but defining harm I think is a bigger issue.

DR. BROMLEY: Yes. Well, maybe, you know, when people went around and expressed their concerns, maybe I was -- maybe my list is longer than yours, Rod. I heard a number of, shall I say, concerns. I won't call them grievance issues. Maybe there was some repetition there.

Kay. Yes, Kay.

MS. WILLIAMS: Yes. Thank you, Mr. Chairman.
I think my issues can be resolved. My issues were needing to hear more discussion such as in reading the document, I felt that if the funding wasn't there, we wouldn't have MPA. I support MPA's. I support no-take MPA's, but if we are saying the funding has to be there before we can have them, then I had a problem with that. So that is why I think this discussion around the table helped clarify our intent.

DR. BROMLEY: Yes. Good. Thank you, Kay. I mean, if we are not strong enough in here about the need for funding, then that is an easy thing to fix. I can't imagine anybody being opposed to asking for more money. Right? Lauren.

MS. WENZEL: This is just a process suggestion. I think there probably were a couple of more issues than the ones Rod -- in fact, I know one was about the access discussion about objectives and some people feeling that there was a lack of clarity there.

DR. BROMLEY: Yes.

MS. WENZEL: And I know, you know, we are running out of time now and people do need to eat and
sleep. So one thing I was going to suggest is that perhaps we could meet in the morning at our scheduled time at 8:00 and kind of just organize the issues that we have laid out today.

DR. BROMLEY: Take stock.

MS. WENZEL: Figure out kind of who is going to take lead and maybe then break and caucus so that people could work out some solutions and then come back later in the morning.

DR. BROMLEY: That is good too.

MR. PETERSON: That is a good idea.

DR. BROMLEY: Yes. All right. Is there a sense that you would like to get out of this room? Okay. Lauren has to say something.

MS. WENZEL: This is about food.

DR. BROMLEY: Food.

MS. WENZEL: We have a shuttle that can take -- there are 27 people that are going to dinner, which is great, and the shuttle can take 12 people. And I think -- I was going to ask if people could share rides or, you know, we could have a, what, limited entry system.
(Laughter.)

MS. WENZEL: So I was just going to ask for a
show of hands of people who have cars and can -- and
are going to dinner, if they could give people a ride.
Okay. I have got one, two, three, four, five. Okay.

So it looks like we have enough folks to give rides as
well and I would just suggest that people meet in the
lobby in, say, 15 minutes, about 20 of, and we can all
take a break.

(Whereupon at 5:25 p.m., the meeting was
adjourned to reconvene at 8:00 a.m. on Wednesday,
May 18, 2005.)

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