

U.S. DEPARTMENT OF COMMERCE

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NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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MARINE FISHERIES ADVISORY COMMITTEE

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Wednesday,

February 24, 2010

The Marine Fisheries Advisory Committee met in the Honolulu Ballroom in the Sheraton Waikiki, 2255 Kalakaua Avenue, Honolulu, Hawaii at 8:30 a.m. Hawaii-Aleutian Standard Time, Tom Billy, Committee Liaison, presiding.

MEMBERS PRESENT:

- TOM BILLY, Committee Liaison
- JAMES BALSIGER, Vice Chairman
- TERRY ALEXANDER
- RANDY CATES
- ANTHONY CHATWIN
- PAUL CLAMPITT
- JOHN P. CONNELLY
- PAMELLA J. DANA
- BILL DEWEY
- PATRICIA DOERR
- EDWIN A. EBISUI
- MARTIN FISHER
- CATHERINE L. FOY
- KENNETH FRANKE
- STEVE JONER
- HEATHER D. McCARTY
- GEORGE C. NARDI

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MEMBERS PRESENT: (Cont'd)

TOM RAFTICAN
KEITH RIZZARDI
DAVID WALLACE

CONSULTANT TO MAFAC:

LARRY SIMPSON

STAFF PRESENT:

MARK HOLLIDAY, Designated Federal Official
HEIDI LOVETT
KARI MacLAUHLIN
ANNE BARRETT
ALAN RISENHOOVER
SAM RAUCH

ALSO PRESENT:

LEE ANDERSON
EARL COMSTOCK
JIM COOK
JOHN KANEKO
DOROTHY LOWMAN
KITTY SIMONDS

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

2 (8:33 a.m.)

3 MR. BILLY: Okay. I'd like to get
4 started. All right. If you'll turn to your
5 agenda, Day 2. We are going to focus first on
6 the area of budget formulation and
7 development.

8 Those of you that have been on the
9 Committee for some time know that we've
10 expressed an interest in playing some
11 appropriate role in the budget process and
12 it's been a difficult idea to implement in
13 terms of getting our arms around the budget
14 process. It's complicated. There's several
15 years advance-planning the current budget.
16 And so as we listen to the presentation this
17 morning, I encourage you to think about what
18 role or roles this Committee could play.

19 It's come up already in our
20 discussions here. Questions about, well, what
21 priority has been given to survey work. Are
22 you cutting back on that, increasing that?

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1 How does that relate to other aspects of the
2 budget? And so hopefully, as we work our way
3 through this topic, we can come up with one or
4 more strategies for our continued
5 participation in the budget process for
6 fisheries.

7 So with that, I'd like to introduce
8 Anne Barrett who is going to share with us
9 sort of the current status and then we can
10 talk about our future role.

11 Anne?

12 MS. BARRETT: Okay. Briefly, I'm
13 going to walk through our budget. Basically
14 I'm going to walk you through briefly on
15 NOAA's budget in total, then I'll get into the
16 Fisheries' Accomplishments for 2009.

17 MR. BILLY: Anne, you're going to
18 have to speak up just a little.

19 MS. BARRETT: Okay. I'll give you
20 a brief update of where we are in 2010 and
21 I'll explain our 2011 request to you and then
22 in the end, I'll tell you where we are in the

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1 2012 process currently.

2 Basically overall, NOAA is
3 requesting a \$5.5 billion budget. This is 17
4 percent or \$806 million over the 2010 enacted
5 level. This request reflects the
6 Administration's commitment to public safety,
7 the environment, science, and job creation.

8 The request supports new R&D
9 investments to strengthen science and to
10 foster innovation.

11 The request provides investments to
12 improve fisheries and the economies and
13 communities they support.

14 The request also provides for
15 sustained, enhanced satellite observations
16 including a major realignment of our polar-
17 orbiting satellite program.

18 And the request also strengthens
19 support for climate research and services.

20 This chart basically depicts the
21 overall NOAA budget comparing the enacted
22 levels. As you can see, the NOAA budget

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1 requests have been steadily increasing since
2 FY 2008. However, the enacted was flat at
3 \$3.9 billion between 2005 and 2008. In 2009
4 the enacted level was \$4.4 billion. And in
5 2010 the enacted level for NOAA was \$4.6
6 billion. The increase in 2010 are primarily
7 related to investments in satellite
8 recapitalization and in order to satisfy the
9 growing public demand for environmental
10 information and services, our NOAA top line,
11 we need to keep growing it. Therefore, the
12 request for NOAA is \$5.6 billion.

13 This chart here depicts NOAA's
14 budget within our two primary budget accounts:
15 Operations, Research and Facilities or ORF and
16 Procurement, Acquisition and Construction or
17 commonly referred to as PAC.

18 NOAA's a field-based and personnel-
19 intensive organization. We have about 12,800
20 employees and so we need to ensure sufficient
21 funds in ORF. The NOAA budget includes \$15
22 million to enhance aviation weather forecasts,

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1 \$6 million for ocean acidification, \$6.8
2 million for coastal and marine spatial
3 planning, \$20 million for regional ocean
4 partnership grants, \$5 million for the global
5 ocean observing system, \$679 million for the
6 joint polar satellite system -- and you'll see
7 that's where the major increase is -- \$36.6
8 million for catch shares, \$16 million for
9 protected resources and \$10 million for
10 habitat restoration.

11 Basically this table is breaking
12 out the NOAA budget by line office. As you
13 can see, the significant increase in here is
14 in NESDIS, the National Environmental
15 Satellite Data & Information Service.

16 National Ocean Service and
17 Fisheries we continue, we have some decreases
18 but that is mainly due to the fact that our
19 earmarks have not been fully incorporated into
20 the President's budget.

21 So now I'm going to get into the
22 Fisheries budget with you, which I think

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1 you're more interested in.

2 This table shows the President's
3 budget for Fisheries are the gray lines,
4 compared to the funding level enacted by
5 Congress, which is the blue lines since 2001.

6 Some of the differences between the
7 requests and the enacted are primarily due to
8 earmarks and disaster supplementals. And the
9 general upward trend you see since 2008 is a
10 reflection of our support from the
11 Administration and Congress.

12 And many of the increases in recent
13 years have been related to the increased
14 responsibilities stemming from Magnuson-
15 Stevens.

16 And the big blue line you see in
17 2007, that's so high due to the emergency
18 supplementals of \$140 million that year due to
19 Hurricane Katrina. So we received a
20 supplemental of \$84.9 million for that for the
21 Gulf of Mexico and we received a disaster
22 supplemental of \$60.3 million for climate that

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1 year.

2 In 2009, some of our important
3 accomplishments that we achieved were that we
4 have made in progress in rebuilding our
5 fisheries to sustain the livelihoods and
6 communities that depend on them, we introduced
7 the draft catch share policy and are committed
8 to an improved relationship with the rec fish
9 community and are taking a management role to
10 improving fisheries enforcement and improving
11 the science behind fisheries management.

12 We fully rebuilt four fish stocks:

13 The Atlantic bluefish, the Gulf of Mexico
14 king mackerel and two stocks of monkfish in
15 the Atlantic.

16 We've implemented an Individual
17 Fishing Quota for Mid-Atlantic golden
18 tilefish.

19 We've published regulations that
20 would limit ship speed to protect the Right
21 whales along the East Coast.

22 We've published the final recovery

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1 plan for the white abalone.

2 We've issued final guidelines for
3 the implementation of Annual Catch Limits and
4 Accountability Measures to end overfishing.

5 We've awarded 50 ARRA grants for
6 habitat restoration projects. We've obligated
7 about 90 percent of those funds to date. And
8 we've created hundreds of jobs with that
9 funding.

10 We've also expanded fish passage at
11 hydropower dams on the Feather and Saco Rivers
12 enhancing access for migratory fish for over
13 100 river miles.

14 And we've implemented a Fishery
15 Management Action Plan for the Arctic
16 Management Area, proactively establishing a
17 management framework for areas opening up
18 because of loss of sea ice.

19 The 2010 status. We have our
20 enacted budget right now. We're at 1.008
21 billion at the 2010 enacted. And that
22 includes 204 million for Protected Resources;

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1 432.9 for Fisheries Research Management
2 programs; 106.7 million for law enforcement
3 and observations; 58.2 million for habitat
4 conservation and restoration, and; 102.7
5 million for other activities supporting
6 fisheries, which does include \$6 million for
7 aquaculture.

8 Within the FRNP account we did
9 receive a \$10 million increase for expanse
10 dock assessments bringing us to about 51
11 million for that program. I know there was
12 some questions on that number yesterday.

13 This budget also sustains \$80
14 million for the PCSRF program.

15 So kind of the bottom line, the
16 enacted level: \$96.4 million above the 2010
17 President's budget, and it's \$128.7 million
18 above the 2009 enacted level.

19 And I think Heidi posted a table,
20 our sub-activity table on the MAFAC site so
21 you guys can see all of our numbers.

22 The 2011 request of \$992.4 million

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1 supports the Administration priorities to
2 transform fisheries and protected resources
3 management. We're doing that through the
4 implementation of the Catch Share Program and
5 the restoration of threatened and endangered
6 species through conservation and recovery
7 grants with states and tribes and through
8 community-based restoration activities.

9 The budget also supports the
10 Administration goal to support vibrant coastal
11 communities and healthy ecosystems. And
12 again, we're doing that through the Catch
13 Share Program; advancing ecosystem-based
14 management through the development of
15 regionally-based integrated ecosystem
16 assessments; supporting sustainable
17 aquaculture research for alternative foods
18 research and implementing the Chesapeake Bay
19 Executive Order.

20 This budget also supports the Ocean
21 Policy Task Force, Administration priorities
22 in science and technology and addresses

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1 congressional priorities in the Chesapeake
2 Bay, species recovery grants and community-
3 based restoration.

4 This table is showing you the NMFS
5 request at the summary level. The yellow
6 column shows you the programmatic change.

7 And one thing I have to explain
8 about this column, we've been getting some
9 flak on it because the program changes in what
10 you see in the NOAA budget are based off the
11 2011 base. So for example if you looked at
12 the PCSRF account, we're actually \$15 million
13 below the enacted level and yet we're
14 requesting a \$15 million increase to get to 65
15 million. And that's just the way they're
16 scoring the budget.

17 So what they're doing is they're
18 taking the 2011 base, which would be the 2010
19 enacted level which for PCSRF would have been
20 about \$80 million, and then they're lessening
21 any congressional earmarks or increases above
22 the 2010 President's budget, which would have

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1 been \$30 million because the President's
2 budget was \$50 million for PCSRF in 2010. So
3 we would have added \$30 million to get to the
4 enacted level of 80 -- it's really confusing.

5 I'm sorry. To get to the 2011 base, we're
6 back down basically at the President's budget
7 level. So that's why you see a plus 15 to get
8 the 11 budget, when it's really a \$15 million
9 decrease.

10 The Hill already yelled at us about
11 it, so don't worry. We're working to change
12 that next year to make it more so people can
13 understand the budget a little bit better.

14 So basically if you look at the
15 enacted level, this is not a program change
16 off the enacted level.

17 MS. DOERR: I'm sorry. I'm not
18 getting it. Can you use one of the lines
19 there as an example?

20 MS. BARRETT: Okay. NET is a line
21 where you can actually see the difference. If
22 you look at the other activities supporting

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1 fisheries -- I'm sorry, look at the Other
2 Accounts. That has 15.4 million. Within that
3 line is PCSRF, it's on the bottom, Other
4 Accounts.

5 MS. DOERR: Okay.

6 MS. BARRETT: That's really not a
7 \$15.4 million increase over the enacted level
8 because as you see, the President's request is
9 84.6 and the enacted level is 103.6. That's
10 because you have to factor in this
11 Terminations column.

12 MR. RIZZARDI: You have the 103,
13 you subtract the 35 --

14 MS. BARRETT: Which are earmarks
15 and add-ons.

16 MR. RIZZARDI: And then from that
17 number the 84 is 15.4 over that?

18 MS. BARRETT: Plus a 2.5 for ATBs.
19 So I just wanted to kind of explain that to
20 you because we've been getting a lot of
21 questions and comments where people are
22 looking at the budget and just comparing it to

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1 the enacted level.

2 So in total the ORF request is
3 about 3.3 million above the enacted level. And
4 PCSRF are requesting a \$65 million program.

5 I'm going to walk you through each
6 of our program changes. To fully fund the 11
7 request we'll allow NOAA to fund:

8 Inflationary costs through ATBs or
9 fixed costs for an addition 16 million;

10 We'll support the implementation of
11 Catch Share program for an addition 36.6
12 million;

13 We'll assess the impacts of
14 protected species from proposed federal
15 actions for an additional 3 million;

16 We'll conduct cooperative
17 conservation and recovery implementation with
18 states and tribes for an additional 10.4
19 million;

20 Implement large-scale ecological
21 restoration projects to benefit threatened and
22 endangered species;

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1 We'll advance ecosystems-based
2 management through the development of
3 regionally-based integrated ecosystems
4 assessments for an addition 5.4 million;

5 We'll implement the Chesapeake Bay
6 Executive Order for an additional 5 million;

7 We'll conduct aquaculture research
8 in alternative feeds for an additional 2
9 million;

10 We'll conduct ESA compliance and
11 permitting with the Bureau of Reclamation and
12 the State and Central Valley Water Projects;

13 And implement priority actions on
14 listed salmon populations for an additional
15 3.2 million;

16 We'll provide an additional 350,000
17 for the Fishermen's Contingency Fund;

18 We'll fund Pacific Coastal Salmon
19 Recovery Fund at 65 million;

20 And to fund all of this we do have
21 some decreases in our budget. We have a
22 planned decrease of 5.4 million for the

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1 Pacific Salmon Treaty which reduces one-time
2 activities, which I'll get into. We have a
3 reduction of 4.6 million for cooperative
4 research. And we have the \$1 million reduction
5 for rent at the Southwest Fisheries Science
6 Center.

7 MS. FOY: Anne, explain that to me,
8 \$1 million reduction in rent. Now, I'm
9 assuming this is a facility owned by, say, a
10 local borough or count against it as rent.
11 Are we moving out of that facility?

12 MS. BARRETT: No, we're not. We're
13 going to reduce lower-priority programs in
14 order to fund that difference. Programs will
15 most likely come out of the Southwest. The
16 rent will still be paid.

17 I'm going to walk you through each
18 of our increases to our budget structure,
19 Protected Resources, Fish Management, Habitat
20 and other activities.

21 So in Protected Species we're
22 requesting an increase of 15.8 million. This

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1 includes an additional 3 million for ESA
2 consultations. This will increase the on-time
3 completion rate of consultations, which we are
4 currently only meeting on time at about 45
5 percent.

6 This will complete Section 7
7 agreements and issue MMPA incidental take
8 authorizations. And this will allow us to
9 reduce the impact of energy exploration,
10 fisheries interactions and national defense
11 activities on protected species.

12 We're also requesting an additional
13 9.6 million for the Species Recovery Grants
14 for a total of 20.8 million. Basically we
15 will go out with solicit and review species
16 recovery grant proposals from states,
17 territories and tribes for conservation and
18 recovery activities. We're going to do the
19 grants to states and territories under Section
20 6 of the ESA and we'll provide tribes grants
21 under the Fish and Fish and Wildlife
22 Conservation Act.

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1 We're going to provide grants to
2 support management, outreach, research, and
3 monitoring projects that have direct
4 conservation benefits for listed species,
5 recently delisted species and candidate
6 species.

7 This seems to be a pretty good
8 program. We have it in place this year and
9 we've been getting requests in that exceed the
10 total amount of money we have available.

11 We're also requesting an additional
12 3.7 million for Pacific salmon. One million
13 will go to the Cal-Fed Bait Delta Program to
14 coordinate the SA compliance and permitting
15 with the Bureau of Reclamation and the State
16 and Valley Water Projects. We'll also spend
17 2.7 million of that for Pacific salmon science
18 activities with 2 million for genetic stock
19 identification and 700,000 for monitoring and
20 evaluation of conservation actions.

21 We're also requesting a \$500,000
22 decrease in Atlantic salmon. And this decrease

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1 is to help fund higher-priority projects, but
2 the remaining 8.1 million in this program will
3 be used to implement projects to address fish
4 passage barriers, restore habitats, study
5 major threats and conduct Atlantic salmon
6 Section 7 consultations.

7 I seem to be missing a slide here.

8 I'm sorry.

9 The Fisheries Research and
10 Management slide seems to be missing. I'm
11 sorry about that.

12 Basically in that program we're
13 requesting 36.6 million for the National Catch
14 Share Program. And with this funding we're
15 going to continue implementation and begin the
16 operation of Catch Share Programs for West
17 Coast trawl individual quota, northeast
18 groundfish sectors, Mid-Atlantic tilefish and
19 Gulf of Mexico grouper and tilefish.

20 We'll also spend about 12 million
21 for national infrastructure of the program
22 including about 2 million that will go to

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1 bringing in new Catch Share Programs.

2 We're also going to spend about
3 18.5 million for at-sea, dockside and
4 electronic monitoring including training,
5 deployment and support.

6 For the catch shares that we would
7 be putting into place, we would provide about
8 a 100 percent observer coverage in the Pacific
9 trawl IFQ, about 30 percent coverage which I
10 understand is the requirement for the
11 northeast multispecies sectors. In the Gulf
12 of Mexico grouper, however we would only be
13 providing 4 percent observer coverage and I
14 understand the requirement is about 10 percent
15 there.

16 This budget would also provide 5.4
17 million for integrated ecosystem assessments.
18 And we'll focus on IEAs for the California
19 current ecosystem and begin expansion into the
20 Gulf of Mexico and northeast shelf region
21 ecosystems with that program.

22 We're also requesting a 5.4 million

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1 reduction to the Pacific Salmon Treaty and
2 this is a planned decrease because it
3 decreases one-time activities that we did with
4 the funding. It reduces Puget Sound critical
5 stocks augmentation from 7.5 million in 10
6 down to 2.1 million. And the decrease reduces
7 funding for one-time startup costs for
8 hatchery and habitat projects needed in 10.

9 The FY 11 request of 2.1 million is
10 sufficient to support the annual costs of the
11 hatchery and habitat projects. And overall,
12 the remaining 16.8 million that's left in the
13 Pacific Salmon Treaty supports our
14 responsibilities with Canada.

15 MS. LOVETT: The missing slide is
16 on the presentation on the website. I'm not
17 sure why it's not in this one. Just so you
18 know.

19 MS. BARRETT: So habitat
20 conservation, restoration and highlights. We
21 are requesting \$10.4 million for community-
22 based restoration grants. We will implement

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1 larger-scale ecological restoration projects
2 to benefit threatened and endangered species
3 with this funding. The projects will target
4 coastal and marine habitat conservation
5 investments and priority coastal, marine and
6 estuarine areas to achieve regionally
7 significant ecological restoration benefitting
8 listed species.

9 Basically we'll focus projects on
10 river restoration, wetlands restoration and
11 fish passage.

12 And this bill's on the Recovery Act
13 funding of 167 million that we received under
14 ARRA. Actually, we received about \$3 billion
15 in requests for that money.

16 We are also requesting an
17 additional 2.4 million for aquaculture and
18 this will allow us to expand on our
19 alternative feeds research and transfer of
20 technology by industry.

21 We're also requesting an additional
22 5 million for the Chesapeake Bay Executive

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1 Order. And we'll provide 2.2 million for
2 habitat characterization and restoration in
3 the Chesapeake Bay, about 2.3 million for
4 ecosystem assessments and fishery science
5 integration in the Bay and 500,000 to enhance
6 and maintain the Chesapeake Bay interpretative
7 buoy system.

8 MR. SIMPSON: Anne?

9 MS. BARRETT: Yes.

10 MR. SIMPSON: Could you tell me
11 what that line item is total on the Chesapeake
12 Bay. Last year it was called regional
13 stimulus.

14 MS. BARRETT: Yes. It was in the
15 regional --

16 MR. SIMPSON: And you've dedicated
17 five out of the nine to Chesapeake. What is
18 the total for that line?

19 MS. BARRETT: Let me get that for
20 you. Give me one second. Chesapeake Bay
21 studies and restoration; it would be funded at
22 about 7.1 million including the 5 million here

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1 for the Chesapeake Bay Executive Order.

2 MR. SIMPSON: So the total line is
3 7.1 million?

4 MS. BARRETT: Seven point one
5 million for Chesapeake Bay. The total
6 regional studies line was 12.3.

7 MR. SIMPSON: Twelve point three.

8 MS. BARRETT: With 5.1 being for
9 SEAMAP.

10 MR. SIMPSON: Thank you. Thank you.
11 That was my question.

12 MS. BARRETT: Cooperative research,
13 we do have a 4.6 million reduction here. This
14 is mainly going to affect the northeast
15 region.

16 Six million for cooperative
17 research funding is being transferred into the
18 Catch Share line and that money will be used
19 for cooperative research, and a portion of
20 that will be used in the Northeast.

21 And again, we're also requesting
22 the \$1 million decrease in the Southwest

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1 Fishery Science Center rent costs.

2 MS. FOY: Anne, can you explain to
3 me, is that possibly returning to normal
4 baseline level after increases for Katrina, or
5 why from the Southwest?

6 MS. BARRETT: It was determined to
7 be a lower-priority project as we were going
8 through the budget and that it could be taken
9 out of other costs.

10 MS. FOY: And it's not going to hit
11 any of the stock assessments that needs to be
12 done down there?

13 MS. BARRETT: I can't tell you
14 exactly what it's coming from, but we'll take
15 a look at all of our priorities as we're
16 determining that.

17 MS. FOY: Okay.

18 MR. DEWEY: Anne, why such a big
19 hit on the cooperative research?

20 MS. BARRETT: I think they're
21 hitting New England because of the \$6 million
22 transfer of cooperative research into the

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1 catch share line. And that money was paying
2 for cooperative research in the northeast
3 sectors. So some of that cooperative research
4 that we had an increase for in 10 is going to
5 continue in 11 but in a different line. So
6 they took their reduction there.

7 MR. BILLY: Just a little bit
8 louder.

9 MS. BARRETT: I'm sorry. The
10 cooperative research reduction in New England,
11 it's coming out of New England primarily
12 because of the transfer of the cooperative
13 research funding into the catch share line
14 which we originally got for the northeast
15 sector, so some of that money is still going
16 to be focused on the Northeast in 2011. So
17 that's why the cooperative research, the net
18 reduction, is right now hitting the Northeast.

19 Did you hear that?

20 MR. BILLY: Yes.

21 MS. BARRETT: Okay. We are also,
22 as I mentioned, requesting \$65 million for

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1 PCSRF. This is above the \$60 million request
2 in the 2010 request -- or 50 million. I'm
3 sorry. But it is 15 million below the \$80
4 million.

5 We're also requesting \$350,000 for
6 our Fishermen's Contingency Fund. This fund
7 basically pays for fishermen in the Gulf of
8 Mexico who get their equipment tangled up on
9 oil and gas equipment. And basically, through
10 the OCS Lands Act, the Minerals Management
11 Service collects funding. We have about 1.3
12 million available in a fund right now, but we
13 have to ask for an appropriation when we need
14 more funding. We're out of funding in this
15 account this year, so we're requesting 350,000
16 so we can cover estimated claims and
17 administrative expenses.

18 And we haven't requested funding
19 for this since 2005 because we had a surplus
20 of almost \$900,000 in that account that we
21 wanted to bring down before we started putting
22 more funding into it or authorizing more

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1 funding, I should say.

2 I understand that you also wanted
3 to understand where we were in 2012. In 2012,
4 right now I have a budget due to NOAA next
5 week, March 5th, so next Friday my budget is
6 due. 2012 initial is due to NOAA.

7 NOAA will then turn a budget into
8 the Department of Commerce in May. And then
9 over the summer, the Secretary will take a
10 look at what's there and make decisions and a
11 budget will be turned in to OMB at the
12 beginning of September. And, of course, that
13 will turn into the President's budget next
14 February.

15 So right now, if you wanted to
16 influence the 2012 process since it's
17 basically going on right now, the best thing
18 to do would be to write a letter or try to get
19 a meeting with Dr. Lubchenco or the Secretary,
20 understanding Dr. Lubchenco is going to be
21 receiving the budget -- the NOAA budget office
22 will be receiving it the end of next week. So

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1 between then and beginning of May she will be
2 reviewing and making decisions on what will go
3 on the 2012 into DOC.

4 And then in May the Secretary's
5 office will receive it. So after that time,
6 perhaps, influencing the budget, to write a
7 letter or meet with the Secretary between May
8 and probably mid-summer when he'll be making
9 his decisions so that we can get a product
10 together to get to OMB.

11 2013, we will probably be starting
12 that within the next few months. And at that
13 point for the 2013 you could really probably
14 start to talk with Eric to influence that
15 process as well. But at this point we don't
16 know what's going to be the final outcome of
17 2012 yet.

18 MS. McCARTY: Anne, when does the
19 initial budget for 2012 become available to
20 the public?

21 MS. BARRETT: February. Next
22 February.

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1 MS. McCARTY: Next February?

2 MS. BARRETT: Yes.

3 MS. McCARTY: Then if we wanted to
4 comment on the budget during the time periods
5 that you describe --

6 MS. BARRETT: You can't. You
7 basically have to let Dr. Lubchenco and the
8 Secretary and Eric, I think, you have to let
9 them know what your priorities are and talk to
10 them about your priorities. They will fit
11 them in where they can, if they can.

12 MR. BILLY: I'd like to pick up on
13 that and float an idea and you've done a great
14 job and I know how complicated federal budget
15 are, all budgets, I guess these days. But
16 it's awful hard to get your arms around this
17 in a way that I think that many can play a
18 useful role because we don't have a template
19 to sort of measure this budget against that
20 we're familiar with, that we can -- you know,
21 maybe some of you are budget experts. Fine,
22 but most of us aren't.

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1 And so the thought occurred to me
2 while you were talking about the possibility
3 of someone, Anne, you or someone, preparing an
4 analysis of this budget against our 20/20
5 document that contains a series of
6 recommendations, more emphasis in certain
7 research areas, more emphasis in aquaculture,
8 more emphasis in survey work. And see how
9 this budget, parts of this budget may be
10 packaged differently, respond to what we've
11 said in our recommendations. And then we
12 could react to that analysis and see, both as
13 a Committee of the whole, how we would like to
14 respond, maybe further recommendations to the
15 agency as well as in our individual capacities
16 interacting with Congress or whoever as
17 appropriate and what we think the priorities
18 should be.

19 I'd like to float that idea so, as
20 we comment and talk, get a reaction to some
21 approach along that line. Maybe there's a
22 better template than that, but I can't think

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1 of one right now, but someday to participate
2 in this process in a meaningful way.

3 Larry?

4 MR. SIMPSON: Thank you.

5 Anne, I was just wondering what
6 guidance, statement, action, memos,
7 communications that you had with regard to the
8 President's stated -- in the State of the
9 Union address that budgets will be frozen
10 starting in 2011?

11 MS. BARRETT: The overall budget is
12 frozen, but that does not mean each agency's
13 budget's frozen. There's going to be, in a
14 word, winners and losers. There's going to be
15 increases in some agencies and decreases in
16 other agencies to have a frozen budget.
17 Because the Government needs to continue to
18 operate and we just can't operate at a
19 stagnant level. So ineffective programs or
20 lower-priority programs are going to come out
21 of the budget while higher-priority programs
22 or budgets, or President's Initiatives are

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1 going to get funded.

2 MR. SIMPSON: Okay. So we could
3 play a role in that determination of what is
4 high-priority and what is low-priority as far
5 as the agency is concerned?

6 MR. BILLY: Okay. Randy?

7 MR. CATES: I have two questions.
8 One for Anne, and it would be Jim's first
9 question. On that catch share program you see
10 a plus 36 million. Does that come from NOAA?

11 Is that request an internal decision that
12 we're going to increase that, or where does
13 that --

14 MS. BARRETT: That request is
15 currently at Congress as part of the 11 budget
16 request for new funding of 36.6 million.

17 MR. CATES: So Congress is
18 requesting the increase?

19 MS. BARRETT: We are requesting
20 that increase of Congress.

21 MR. CATES: Okay. And I'm thinking
22 back in time under the last Administration and

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1 I remember hearing Secretary Gutierrez and
2 Admiral Lautenbacher saying aquaculture is
3 going to be the highest priority, yet it never
4 was funded of any real sorts. And so I'm
5 puzzled that NOAA can determine catch share
6 now as a priority and we're going to request
7 that, whether you get it or not hasn't been
8 determined yet.

9 MS. BARRETT: We do have a -- I
10 think it was \$2.4 million for aquaculture, an
11 increase, for a total of about 6 million we're
12 requesting. Maybe Jim can talk to you a
13 little bit more about what's behind
14 aquaculture. I know we're trying to get a
15 national policy into place in that program.

16 MR. CATES: Well, my point on that
17 was, years ago it was told to us, I think we
18 were at 8 million or something at one time,
19 aquaculture is going to be the highest
20 priority but that NOAA couldn't increase the
21 funding, that it had to be Congress. And yet
22 what I'm seeing is is NOAA wants to increase

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1 the catch share, so they are requesting an --

2 MS. BARRETT: We are requesting an
3 increase in catch shares. And we are
4 requesting a smaller increase in aquaculture,
5 I think, from where we are right now in the
6 program.

7 VICE CHAIR BALSIGER: So, you know,
8 both on the aquaculture in the old
9 Administration and this catch shares stuff, it
10 started out basically with Fishery Service
11 looking for that money. That then has to go
12 through the process. So NOAA requested that
13 in both cases. Gutierrez and Lautenbacher
14 wanted aquaculture money. Lubchenco wants
15 catch share money.

16 Then they went to Commerce.
17 Gutierrez wanted aquaculture money and Locke
18 wants catch share money.

19 Then they went to OMB. OMB didn't
20 want aquaculture. OMB wants catch share
21 money.

22 Do eventually the White House works

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1 in there and all of the policy stuff.

2 So whereas NOAA has supported
3 aquaculture increases, it didn't get support
4 at the White House or at OMB. That's
5 different than catch shares, which did get the
6 support. So it brings it to like \$54 million
7 for catch shares.

8 So I don't know if that's because
9 of the overall influence of President Obama
10 who has this Ocean Policy Task Force going on,
11 of which part, catch shares is a big piece. I
12 said that awkwardly. Catch shares is a big
13 piece of the Ocean Policy Task Force. So
14 they're basically putting their money behind
15 what they said they wanted to do.

16 That's still not money yet because
17 it has to go to Congress and Congress has to
18 appropriate that over this summer and fall.
19 There isn't any money attached to this yet
20 until the appropriations get done.

21 MS. BARRETT: They serve requests.

22 MR. CATES: And then the question I

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1 have for you, Jim, is how do we measure or is
2 there a mechanism to measure whether these
3 programs are achieving the goals? An example
4 I think of is in aquaculture; that's what I'm
5 familiar with.

6 I don't know of any set goals that
7 are out there, and I'm in the industry, and
8 whether we're achieving those goals. And so
9 yes we get \$4 or \$6 million, but are we really
10 accomplishing a set of goals? I don't know if
11 you folks have that measurement, but that's
12 something that I think this Committee would be
13 looking at. How do we measure success in all
14 these programs?

15 VICE CHAIR BALSIGER: Well, we do
16 have performance measures on almost everything
17 now. And that's been something that's changed
18 dramatically even in the past half dozen
19 years.

20 It's difficult to find quantitative
21 performance measures on many things;
22 nonetheless we've tried to do those. And I

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1 don't have them in my mind. Sam and Anne and
2 Mark might, and Alan. But we could describe
3 some of those performance measures. And maybe
4 that'd be useful so we could show what we're
5 showing.

6 Incidentally, on the website the
7 thing that says the Summary Detail has all 400
8 lines of NMFS' budget in there for 2010. And
9 so you can look in there and see every
10 individual program. And it's cumbersome, but
11 it's all there on the website.

12 I don't know that those tables are
13 readily available, for example, for -- I meant
14 2011. I'm not sure if they're there for
15 enacted in 2010. So people like Larry who
16 wanted to know where a specific number changed
17 --

18 MS. BARRETT: Actually, the table I
19 provided, it should be on the MAFAC website
20 would have, I think, 2009 enacted, 2010
21 enacted as well as the 2011 requests.

22 VICE CHAIR BALSIGER: Okay. But

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1 it's a big table.

2 MS. BARRETT: Yes.

3 VICE CHAIR BALSIGER: And I would
4 have known that, but my machine just locked up
5 because it's too big. And it's line-by-line
6 if you're interested in particular lines.

7 And it's not easy to follow even
8 then because they changed the titles of lines
9 and as Anne pointed out, the cooperative
10 research stuff: it seems like it went down and
11 actually got transferred to a different -- I'm
12 still not sure how that works. But I
13 understand it's not as simple as looking at.

14 MS. BARRETT: It's cooperative
15 research. If you look at the table, it looks
16 like a \$10.6 million reduction because 6
17 million was moved into Canoe Catch Share line.

18 VICE CHAIR BALSIGER: So it really
19 is a reduction, but it's not a 10.6 million,
20 it's only a loss of 4 million.

21 MS. BARRETT: Correct. Four point
22 six, yes.

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1 VICE CHAIR BALSIGER: And then you
2 have to look at the table to see how much is
3 left, because I've forgotten that. So maybe 4
4 million is a big part of what's left, and
5 maybe it's a small part.

6 MS. BARRETT: They have about 7
7 million left.

8 VICE CHAIR BALSIGER: Okay. So
9 it's a big part.

10 MS. BARRETT: Yes, about 7.1
11 million left.

12 VICE CHAIR BALSIGER: Anyway, so
13 sorry for shouting.

14 MR. BILLY: Okay. Who is next?

15 MR. NARDI: I think for me budget
16 discussions, and maybe for us as a group, I
17 just want to endorse Tom's idea as some kind
18 of measurable thing to look at and put some of
19 this in perspective, based on what we have
20 done past years and approved and how is this
21 budget lining out. I think that ought to get
22 -- a little bit where Randy is coming from is,

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1 the Committee has endorsed or made
2 recommendations and is there any direction
3 towards that reflection of the budget?

4 MR. BILLY: Heather?

5 MS. McCARTY: Mr. Chairman, I think
6 we really haven't done that in the past to any
7 great degree. So if we're going to start
8 doing that, then we would need the measuring
9 tools that -- as far as I recall, we've only
10 done sort of a real high level 20/20 vision
11 type of recommendation rather than specific
12 budget lines.

13 MR. BILLY: Right.

14 MS. McCARTY: If we want to switch
15 our tactics, I guess that's what we're going
16 to talk about, right?

17 MR. BILLY: Yes. That's what I
18 think we are talking about. Yes.

19 Bill?

20 MR. DEWEY: I just wanted to also
21 speak in support of that idea, Tom. I think
22 it's a good suggestion. You've asked at our

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1 last meeting we be more involved in the budget
2 process. I mean, that's the best way to start
3 with some sort of analysis there as to how it
4 lines up with the 2020.

5 And partly speaking to Randy's
6 comment, the performance specific to
7 aquaculture. You know, we've also asked NOAA
8 to do this ten year marine aquaculture plan
9 and whether the performance measures would
10 speak directly to that or not, I somewhat
11 doubt it. I just wonder if we shouldn't have
12 some sort of a review periodically specific to
13 that so that we have a sense of whether
14 they're making progress on that or not.

15 MR. BILLY: Well, the analysis that
16 I suggested could include what the performance
17 measures are for areas that we've focused on
18 and accomplishments. It could be inclusive.
19 It would seem to me, you know it gives us a
20 real benchmark then and gets some ways towards
21 what Anne has raised and I think a lot of use
22 share an interest in the same thing.

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1 Keith?

2 MR. RIZZARDI: I just want to
3 caution everybody that you're digging really
4 deep. And we may bite off more than we can
5 chew. The Budget Subcommittee is going to
6 have its hands full just trying to do the
7 analysis we're talking about.

8 If you pull up the Bluebook that's
9 online, you realize the line items there which
10 go program-by-program, you have to drill in
11 deeper to really start scrutinizing well what
12 does that line item mean. And then what
13 documents are you going to be reviewing and
14 who is going to do it.

15 And so I'm just going to make the
16 very practical point that if MAFAC's going to
17 take that on, you need the people with the
18 right expertise sitting in the Committee.
19 Your Strategic Plan and Budget Subcommittee
20 has other responsibilities like catch shares
21 that we're spending our time on at this
22 meeting. We probably need a separate

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1 subcommittee to tackle the task of
2 scrutinizing the budget if that's what you're
3 going to choose to do.

4 I don't necessarily support or
5 oppose. But just as a practical point you
6 need to realize what we're talking about.

7 MR. BILLY: Yes. Heather?

8 MS. McCARTY: As the Chair of that
9 Committee, I agree. I don't see how we can
10 get into any kind of detail at this meeting if
11 we're going to concentrate on catch shares.
12 And if we don't do it this meeting to
13 influence this next budget process, when are
14 we going to do it?

15 VICE CHAIR BALSIGER: Well, of
16 course, this group is not -- is allowed to
17 talk to your Representatives, your Senators
18 and Congressman. And they won't be working on
19 this until probably July, August, September.
20 So at that level for the 2011 budget you could
21 influence. Because the Administration is done
22 with the 2011 budget. 2012 and '13 is a

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1 different question.

2 MS. McCARTY: I was talking about
3 2012.

4 VICE CHAIR BALSIGER: Could I make
5 one more point on this Bluebook, on the tables
6 here? You know, all the congressionally
7 directed projects are zeroed out, so there's a
8 whole list of them. And that's just a routine
9 thing. Those are sort of what we used to call
10 earmarks, now they're congressionally directed
11 projects. And so the Administration
12 automatically zeros them. But there's a whole
13 list of them from Bering Sea Fishermen's
14 Association through New England Multi-Species
15 Surveys, Western Pelagic Fisheries research
16 stuff that doesn't mean they're necessarily
17 bad projects, but the Administration zeroes
18 them. So those are all traditionally struck -
19 - they get money in appropriations through
20 appropriators, Congress does that.

21 I guess if you like one of those
22 earmarks or congressionally directed projects,

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1 you may put in a word for it. But it's not
2 time to panic because for every year since
3 I've been around they're always zeroed in the
4 Administration's budget.

5 MS. BARRETT: If I may add, I'd say
6 most of the time they're zeroed every once in
7 a while.

8 And as to our first hearing with
9 the House appropriators, I think will be March
10 17th now. And if you want to influence the
11 2011 budget, you may want to think about
12 getting up there in the spring sometime.
13 Because the summer might be a little bit late,
14 depending on their schedule.

15 MR. CONNELLY: There is a broader
16 coalition for those interested called the
17 Friends of NOAA. Each agency typically has a
18 group that advocates for their budget, a
19 similar group called the Alliance for a
20 Stronger FDA. And the Friends of NOAA is a
21 very broad group that doesn't take policy
22 positions, but advocates broadly for increased

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1 funding of NOAA and its subsidiary agencies.

2 MR. BILLY: Randy?

3 MR. CATES: Just one of the things
4 I was trying to get on the table is I'm always
5 asked to support NOAA in particular parts of
6 the budget. It's very difficult without
7 getting a set of goals of what that budget is
8 for, for example aquaculture and a measurement
9 on how they're doing. And I've told people
10 within that department a measure of success is
11 not how much funding you get, it's what you do
12 with the funding.

13 If the goal of NOAA is to expand
14 aquaculture, I've put on the table I think
15 we're going in the wrong direction. Because
16 we're not putting our money towards expanding
17 aquaculture. We're doing other things.

18 If the goal of that budget is to
19 feed research or whatever it is. But how do
20 we measure? I think MAFAC plays an important
21 role here. What is the goal of aquaculture,
22 for example?

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1 MR. CONNELLY: Well, if I could, I
2 think, Randy, the question is really not what
3 NOAA wants but what Congress will do. And the
4 funding comes from Congress. And if you want
5 to impact a particular program, you go to
6 Congress. And NOAA can make all the
7 suggestions they want, but the design of our
8 system is that Congress has the purse strings.
9 And you need champions in Congress on
10 particular line items.

11 MR. BILLY: Tony?

12 MR. CHATWIN: Yes. I was looking
13 through the 2020 or listening to the
14 discussion. And I think that one role that
15 MAFAC could play is in addition to the
16 recommendations, is to come up with some
17 estimated amounts that would be needed to
18 implement these recommendations. Because I
19 just went through, I couldn't really find
20 anything.

21 But I just think that that might be
22 one way to make the recommendations even more

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1 helpful to NOAA and a way to then track, you
2 know compare apples-with-apples. Come up with
3 an estimate of what we think we needed.

4 MR. CATES: I might be wrong. I
5 though the aquaculture ten year plan did that
6 a little bit. It reflects a certain level of
7 funding to achieve the plan. I might be
8 wrong.

9 MS. FOY: Well aquaculture, but
10 he's talking about 2020.

11 MR. CATES: Yes. 2020

12 MR. CHATWIN: The 2020. Yes --
13 when we make recommendations like that.
14 Because while I agree that the members of
15 Congress hold the purse strings, I think if
16 the President's requests includes the
17 priorities as you see them, you have a much
18 better chance of getting them funded.

19 MS. BARRETT: And if your projects
20 are in the President's requests, they will
21 have a much better chance of staying in the
22 base rather than being terminated each year.

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1 MR. BILLY: Cathy?

2 MS. FOY: I personally, Mr.
3 Chairman, don't know that I would be
4 comfortable going to 2020 and estimating how
5 much would be required to do that. I don't
6 think that sitting around this table is the
7 expertise to be able to give any kind of
8 accurate estimate. I think that we may be
9 able to have the Committee make a leap of
10 faith and say that what NOAA is requesting is
11 appropriate. But I don't think that we'd be
12 able without a huge investment of time and
13 expertise being able to go through 2020 and
14 say what we would recommend. I don't think
15 that would be feasible.

16 MR. BILLY: Okay.

17 MS. FOY: Producing 2020 was
18 simple. Getting everybody to agree on where
19 the money should go within there, I think
20 would be adding a whole other layer of
21 complexity that we just don't have the
22 expertise for.

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1 MR. CHATWIN: If I may, Mr.
2 Chairman. But what I'm hearing is that we
3 want NOAA to tell us how well they're doing
4 implementing our recommendations and how the
5 budget reflects our recommendations. And, I
6 mean that to me -- it's very hard to then
7 compare. Because we're saying these are great
8 ideas. These are the ideas that we want you
9 to pursue and tell us how you're pursuing
10 them. And then we're frustrated that they're
11 not.

12 So that's just a suggestion. I
13 agree, rather than going through the whole
14 entire budget and all the line items, what I
15 was suggesting is that there are some key
16 priorities that are identified in this report.

17 And going deeper within those priorities
18 might be a good use of the time of this
19 meeting.

20 MS. FOY: I pass.

21 MR. BILLY: Mark?

22 DR. HOLLIDAY: So one of the things

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1 we did with 2020 at the turn of the
2 Administration in November of 2008, we put
3 together a transition paper. So it was based
4 on 2020 and had four or five main ideas or
5 main themes that we wanted to highlight to the
6 new Administration as priorities for MAFAC.

7 Within that we were really
8 selective of what we chose out of the 24 items
9 that were in the 2020 report. We took our top
10 priority ones, but we didn't include specific
11 support for language for budget support.

12 So what I'm hearing is, you know
13 this idea of a template is you got the entire
14 range of what's in the NOAA budget, all these
15 different hundreds of line items, you've got
16 some strategic advice on the other hand that
17 MAFAC has identified four or five areas that
18 are important and you want to know what kind
19 of investments are being made to support those
20 accomplishments. And how do you measure those
21 accomplishments is Randy's point. You know,
22 what are the metrics that we're using to do

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1 that?

2 So I guess I'm supporting in some
3 fashion, if I understand Tom's suggestion of a
4 template that bridges this gap. I mean,
5 there's a huge conundrum here of how do you
6 translates hundreds of lines of information
7 about budgets into something that you can use
8 almost as an index of are we making progress
9 in, whether it's catch shares or expanding
10 stock assessment or supporting aquaculture;
11 these were three of the four things we talked
12 about. That's it. We want to continue NOAA's
13 support in the 2009 budget proposal of a \$8.5
14 million increase in funding fish stock
15 assessments. That was a marker that you laid
16 down. And you'd like to hear back from the
17 Administration at some point how well are we
18 moving in that recommendation.

19 So I think you actually took a stab
20 at this already, this template idea of
21 focusing on those highest level ideas, linking
22 it to specific budget objectives and then

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1 wanting to hear back how well are we doing.
2 And with a little bit of work, I think the
3 Committee could continue along those lines of
4 being at the strategic level without killing
5 yourselves getting into the weeds of
6 understanding the minutia of the budget.
7 That's not going to be productive for anybody.

8 MR. BILLY: Yes. Heather?

9 MS. McCARTY: Mr. Chairman, thank
10 you.

11 I think Mark has synthesized what
12 we have done really well.

13 I think one of the things that this
14 Committee was sort of giddily thinking at the
15 end of the last meeting was that we might have
16 maybe more of an influence on upcoming budget
17 processes. And that we might be sort of in
18 the loop somehow in determining priorities and
19 so forth. So I think that's what Mark
20 describes as a good way to assess how much
21 progress has been made in these areas that
22 we've identified as important. But I think

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1 what we were kind of thinking before was that
2 we might influence before then; that we might
3 not just get the report but we might be
4 instrumental in setting priorities in the
5 future.

6 MR. BILLY: Perhaps --

7 DR. HOLLIDAY: Just to clarify.

8 MR. BILLY: Yes. Go ahead.

9 DR. HOLLIDAY: I mean at the point
10 in time you issued this report it was forward
11 looking. It was for a future budget that
12 hadn't been acted on yet. So I think it was
13 taking that ten year vision of 2020 and
14 translating that into the next two budget
15 cycles important areas. And so there was an
16 element of not just reaction but in terms of
17 pro-action.

18 MS. McCARTY: Yes.

19 DR. HOLLIDAY: We'd like to see
20 this investment to fully fund the stock
21 assessment accountability, blah, blah, blah.
22 Hadn't even happened yet in the budget cycle.

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1 MS. McCARTY: But we didn't get
2 into any real detail.

3 DR. HOLLIDAY: Not into the, yes, a
4 plus up of X and the minus of Y. Not that
5 way.

6 MR. BILLY: And maybe we can think
7 about this in sort of a step-wise process.
8 We've gotten our feet wet with the document
9 that Mark referred to, which is based on our
10 overall 2020 visioning and identification of a
11 whole series of recommendations. Getting an
12 analysis and a report back on that particular
13 document Mark referred to could be informative
14 to us then in terms of next steps. Without
15 any real commitment about whether we needed
16 another subcommittee or not, or you know let's
17 see how we did, what kind of response we got,
18 what the performance is and then at the next
19 meeting or a subsequent meeting to that decide
20 how we move further in this line. Because,
21 for example, getting an analysis of the
22 response to that paper, the transition paper

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1 could lead us to make some recommendations
2 that hopefully could influence 2012 and 2013.

3 I mean, they're in the formative stage so
4 taking this on in smaller and in a more
5 reasonable way might be a good approach.

6 So if there's any support for
7 something along that line, we could entertain
8 a motion that would make a recommendation to
9 the agency in terms of what we would like to
10 receive. And then we could include it in a
11 subsequent agenda for further discussion.

12 Mark?

13 DR. HOLLIDAY: I mean, we've talked
14 about budget and the process a couple of times
15 in the last few meetings. And I think one of
16 the observations that I'm kind of reaching a
17 conclusion here, is the Committee in order to
18 be effective would need to institute some sort
19 of process of regularly addressing the
20 strategic goals and ideas that you want to
21 move forward to NOAA. It's not just a budget
22 cycle thing. It's got to be something that

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1 you have continuous feedback about what you
2 see as priority areas. In order to accomplish
3 that, you're going to need money and
4 resources. And so all along the way
5 throughout the year this has to be sort of a
6 standing, take the pulse of where we are at
7 the strategic level, the budget initiative
8 level, that execution, the planning cycle.

9 So just looking back, you have kind
10 of made fits and starts. So even if we do a
11 template, I think there's a more routine
12 action at every meeting and even between
13 meetings that has to take place in order for
14 this to be effective.

15 It's an observation. I mean, if
16 you look back we've got little steps we've
17 taken, but then we go three or four months
18 between meetings and we kind of have to take a
19 step back in order to go forward again.

20 So as part of that motion I think
21 the idea of linking it to the strategic level
22 thinking and recommendations; it's not just

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1 budget, it's one item and then a process
2 component to that of how are we going to do
3 that. And maybe it's too much for any one
4 committee. I don't know what the right answer
5 is. But it will consume some of your time and
6 energy so you've got to be mindful of that.

7 MR. BILLY: Keith?

8 MR. RIZZARDI: Yes. Mark, I agree
9 a 100 percent. And, Heather, I think it would
10 ultimately fall under a committee.

11 I think one way to get there is
12 periodic teleconferences. The material would
13 need to be distributed to key members for them
14 to review it. Have a teleconference on the
15 off cycle so then you could come here to this
16 meeting, or whichever future meeting it is,
17 and take the appropriate actions. But I
18 agree, it would have to be a standing item.
19 There would have to be a group of people who
20 are committed to the process who will
21 understand the nuances of budgets and how to
22 scrutinize them.

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1 And it is a significant commitment
2 on the part of MAFAC if we're going to make
3 it. I don't think it's a bad idea. I think
4 it's worth doing. But it's a resource issue.

5 MR. BILLY: Heather?

6 MS. McCARTY: Yes, Thank you, Mr.
7 Chairman.

8 I think he's right. I think maybe
9 what this Committee could do on kind of a
10 preliminary basis, the full Committee, is
11 identify the pieces that we might want to see
12 in such a template and sort of try to rough
13 out those priority areas so that there's
14 something to start with. And we would start
15 with, perhaps, the priorities that were
16 determined by the 2020 and the transition
17 document. Take a look at that again, just a
18 graph, you know and just say check, check,
19 check, check are we still looking for this?
20 Is this what goes in the template? Is that
21 what we want?

22 That's what I think the Committee

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1 could do at this meeting potentially. I think
2 it would relatively simple if we had it up on
3 the board. We could just say, yes, we want to
4 start with that.

5 MR. BILLY: Other comments?
6 Suggestions? Okay. Tom?

7 MR. RAFTICAN: And maybe something
8 that might work is try to look at the
9 progression. And maybe a short history so if
10 you can look at the deviations, the deviations
11 will show you the trends. And the trends tell
12 you where you're going and they tell you the
13 priorities of the Administration and NOAA.

14 It wouldn't be terribly difficult
15 if you put the table together to look at that,
16 and it makes it a lot easier to follow.

17 MR. BILLY: Okay. Well why don't
18 we put the transition --

19 DR. HOLLIDAY: No, the short
20 version of 2020.

21 MR. BILLY: Okay. Okay. We're
22 going to put a document up that may be a

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1 starting point and you can kind of react to
2 that and see if we feel we're on the right
3 track or not.

4 MR. JONER: Mr. Chairman?

5 MR. BILLY: Yes.

6 MR. JONER: While we're waiting for
7 that, I would like to know about salmon,
8 Pacific salmon funding. And that, as I
9 recall, is 80 million. So that's like one-
10 eighth of the total budget. Is that correct?

11 MS. BARRETT: It's at 80 million.

12 MR. JONER: 80 million? So that's
13 -- what percent is that?

14 VICE CHAIR BALSIGER: Well, just to
15 help you, there's more Pacific Salmon money
16 than PCSRF too. So you want to add in the
17 other pieces you figure out the fraction.

18 MR. JONER: Anyway, that's a bunch
19 of money, right?

20 MR. BILLY: It always is.

21 VICE CHAIR BALSIGER: A lot.

22 MR. JONER: So, you know I may get

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1 exiled for this, asking this question, but I
2 guess salmon is a marine fish. It spends half
3 or three-quarters of its life in marine
4 waters. But I'm always just kind of amazed to
5 see the vast amount of money and the vast army
6 of salmon people in the northwest.

7 MR. RIZZARDI: You haven't met the
8 vast army of litigators involved in salmon
9 issues.

10 MR. JONER: Well, I know. I know
11 about it.

12 So I don't know if anybody else
13 would be interested in having a briefing on
14 that sometime, just to -- far be it from me to
15 question all the money spent on salmon. It's
16 just I look at the West Coast --

17 MR. SIMPSON: You want a share.

18 MR. BILLY: Many new leadership --
19 people in leadership positions have come in to
20 Washington with those kinds of thoughts.

21 MR. JONER: I have no thoughts. I
22 have no thoughts of doing anything against

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1 salmon.

2 MR. BILLY: I hear you.

3 MR. JONER: I guess I'm a little
4 envious to see all the money salmon gets and
5 that we have some really serious problems with
6 groundfish. Other marine fish.

7 MR. BILLY: And just remember the
8 Secretary of Commerce right now.

9 MR. JONER: Yes. But you know
10 there's more in every green state than salmon.
11 Just my personal opinion.

12 MR. BILLY: Okay. Martin?

13 MR. FISHER: Thank you, Mr. Chair.

14 I think a while back I had asked
15 for some similar kind of thing, a performance
16 review which DOC actually did for us last
17 meeting. And I know that's just a baby step
18 in the direction that we're talking about now.

19 But at least we've started that process. And
20 I just want to remind the Committee that we've
21 already made the initial steps to get there.

22 So where's our performance review

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1 this time. Tom?

2 MR. BILLY: It's on the tail end.

3 DR. HOLLIDAY: So if you want to
4 follow, those are online. This is from the
5 November 2008 meeting we had in New Orleans.
6 And it's under that discussion, the file name
7 is the 2020 brochure.

8 This was the two pager that we put
9 together to hand out to the public or whoever
10 else to get the short version of what was in
11 2020. I thought it would be helpful. You
12 know, the purpose again was to provide this
13 long term advice and recommendations. We had
14 these four recurring themes that we thought
15 were necessary to support our outcome, which
16 was a future with healthy sustainable fish
17 populations, of robust fishing and marine
18 offshore aquaculture industry, ample
19 recreational fishing opportunities, vibrant
20 coastal fishing communities and a safe and
21 healthy seafood supply for the nation. So
22 those were sort of our strategic destinations

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1 of where we wanted to see the U.S. be headed.
2 And these four themes were or organizing
3 principles.

4 The more timely and higher quality
5 data necessary for critical management
6 decisions. Widespread opportunities to
7 develop and adopt technology to achieve those
8 outcomes in the future. That achieving the
9 ocean policy goals can only result from
10 collaboration partnership across different
11 levels of governance of participants.

12 This was all leading up to the 24
13 specific recommendations we made. And the
14 most relevant part of this was, you know
15 additional resources, fiscal resources are
16 necessary and required to obtain these
17 predicted benefits.

18 So we had 24 different specific
19 recommendations. And so I think the way we
20 would look at this as a template is to
21 identify these -- and as you change them over
22 time, if these are still the same ones, fine.

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1 If they're different ones, we've talked about
2 how often to update 2020 as a document. But
3 then these would be or we'd find a measure
4 that would be associated with this as success
5 -- define the success-- or status quo. And
6 then we could look to see what sort of
7 investments are being made in the budget cycle
8 in 2011, 2010, what's proposed for 2011. And
9 if we're unhappy with that or we're satisfied
10 with that, or whatever it is, we would then
11 have a basis for saying well in 2012 stay the
12 course, do more, do less. And so you have a
13 basis to kind of score this over time relative
14 to what you've identified as priorities, these
15 essential ingredients you want for this vision
16 that you've provided as advice to the
17 Secretary.

18 So I'm not sure if you want to take
19 a look, if you have it in front of you, or we
20 can go through them one-by-one. But you spend
21 a lot of time and invested a lot of energy in
22 creating these. I think this is a very good

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1 starting point to tier off to get to this
2 template that Tom suggested earlier, and there
3 seemed to be some support for doing that.

4 So it's not necessarily, you know
5 mapping all. There's 32 different line items
6 that support expanding from expending stock
7 assessment to resource service, all these
8 things improve data collection. I'm not
9 exactly suggesting we do a mapping of it, but
10 somehow link back to what have been at the
11 higher level of -- you know Fisheries Research
12 and Management. You know, what were some of
13 the ups and downs that would affect that group
14 of recommendations. Keep it at that higher
15 level.

16 MR. BILLY: Yes, higher level.

17 Let someone do the analysis from
18 the agency and pull all that together for us.

19 And then we can react to it. I'm not sure if
20 this Committee needs to do all that work. I
21 think we can ask the agency to -- if we're
22 clear on what we want to prepare a document

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1 that we can then react to and see if we're on
2 the right track, we're comfortable with it.
3 And then refine it as we move forward and
4 decide about whether it's a separate committee
5 or subcommittee and see how we want to do
6 that.

7 I don't think, just speaking for
8 myself, I don't know how to envision on a
9 sustained basis we ought to do that. I think
10 we need to move into it step-wise and see.

11 MS. McCARTY: Mr. Chairman, would
12 it be helpful if the Budget
13 Committee/everything committee if we kind of
14 took a look at it this afternoon briefly and
15 maybe extended our time a little bit and --

16 MR. BILLY: Yes.

17 MS. McCARTY: -- then arrived at
18 some template suggestions brought back to this
19 group the following day for a decision?

20 MR. BILLY: Yes. I think that's
21 excellent.

22 MS. McCARTY: Okay. Because it's

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1 going to be really hard to work from this
2 list.

3 MR. BILLY: Yes, I can see that.

4 MS. McCARTY: Yes. I know.

5 MR. BILLY: I know.

6 DR. HOLLIDAY: Well, again, it was
7 for the benefit of those who aren't
8 necessarily on that Committee. I wanted to
9 give them a sense of what was there. If you
10 can't see it on the screen or you don't have
11 it on your desktop, I'm sure it's much more
12 difficult.

13 MR. BILLY: Martin?

14 MR. FISHER: To that point is the
15 scheduling on the agenda that that Committee
16 doesn't start until 3:00 to allow those
17 Committee members to attend the other
18 Committees?

19 DR. HOLLIDAY: That was the
20 purpose, yes. Yes.

21 MS. McCARTY: Then we could start a
22 little earlier.

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1 MR. BILLY: Start at 2:30.

2 MS. McCARTY: 2:30 and deal with
3 the budget stuff.

4 MR. FISHER: Yes, it looks like it.

5 MS. McCARTY: Yes. And then we
6 could work from this.

7 MR. BILLY: Starting at 2:30?

8 MS. McCARTY: What is this labeled
9 on the meeting agenda? What is it labeled?
10 What's the title?

11 VICE CHAIR BALSIGER: You said what
12 it was.

13 MS. McCARTY: I just missed it.

14 MR. BILLY: Is there any objection
15 to --

16 DR. HOLLIDAY: It's the brochure.
17 2020 brochure.

18 MS. McCARTY: Thank you.

19 MR. BILLY: Any objection to
20 starting the Strategic Planning Budget Program
21 Management Subcommittee meeting a half hour
22 earlier at 2:30? Seeing none, we'll make that

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1 adjustment in the agenda. And that's a good
2 approach.

3 Any other questions or comments
4 about the budget? Seeing none, let's take a
5 15 minute break and then we'll prepare for the
6 next presentation.

7 (Whereupon, the above-entitled
8 matter went off the record at 9:39 a.m. and
9 resumed at 10:07 a.m.)

10 MR. BILLY: Okay. I'd like to
11 resume the meeting.

12 This Committee has over the last
13 several years involved itself in the subject
14 area of methylmercury in seafood and enjoyed
15 presentations from representatives of FDA and
16 NOAA on various aspects of this subject. And
17 since we are here in Hawaii we thought we'd
18 take advantage of the opportunity to hear
19 about some new work that's being done.

20 And so it's my pleasure to
21 introduce Dr. John Kaneko. He has been
22 involved in studies examining the relationship

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1 between the presence of selenium and mercury
2 in seafood.

3 So, John, the floor is yours.

4 DR. KANEKO: Well, thank you very
5 much for the introduction.

6 Just an introduction. I work here
7 at a private company called PacMar. And we
8 have been doing a lot of research on basically
9 seafood safety issues starting with parasites
10 in raw fish, doing work on histamine and
11 histamine controls on our scombroid type
12 fishes and also somewhat on methylmercury. So
13 this is kind of where we are.

14 And today I was invited to give a
15 talk about some of the research, but I thought
16 I'd give the talk about basically trying to
17 understand where we are right now with the
18 EPA/FDA advice or advisory for pregnant women.

19 Where that information comes from, where it
20 came, and really take a look at it. Take a
21 look at some of the major studies and findings
22 that have been reported on the health effects

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1 of eating seafood. And then get into a little
2 bit about the selenium mercury interactions.

3 But I was also instructed to try to
4 keep it short and leave time for questions.
5 And this is a pretty long presentation, but I
6 am going to just kind of jam right through it.

7 I'm going to talk about the EPA/FDA
8 joint advisory for pregnant women. It was put
9 out in 2004. The 2004 advisory is for
10 pregnant women, nursing mothers and young
11 children.

12 A lot of people are confused by
13 this advisory and end up interpreting that if
14 it's not good for young children or pregnant
15 women, that it couldn't be good for an adult
16 male. And that's absolutely wrong. There are
17 no advisories for the rest of the population
18 on mercury and fish consumption.

19 The advisory tells us right now to
20 avoid swordfish altogether if you're a
21 pregnant woman. Sharks, it's a whole group of
22 fish. King mackerel and tilefish. To limit

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1 all fish consumption to no more than two meals
2 a week.

3 What if you have extremely low
4 levels of mercury? Why are we avoiding fish?

5 So there's a real problem that I have with
6 the advisory the way it's written. And if you
7 look at it to interpret it and bring it down
8 to what's important to us here in Hawaii is
9 for the larger tuna species, the consumption
10 is to limit to no more than one meal a week.
11 Okay. I eat fish probably ten times a week
12 and I don't eat a nice fillet 4 ounce or 5
13 ounce. So I think that, you know -- of course
14 I'm not going to get pregnant, so that's not a
15 problem.

16 I just like to talk to people about
17 this because is there really a consensus on
18 these advisories? Well, there isn't at all.
19 A lot of the agencies disagree what is a safe
20 reference dose, which is what you could eat
21 everyday without getting into trouble. And
22 reference dose is the basis of the advisories

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1 for fish consumption.

2 Now there's a wide range of
3 guidance for, say, tuna consumption. This
4 would be the large tunas like, let's just
5 stick with the Elephant. EPA would say no
6 more than one meal a week. WHO, which is the
7 World Health Organization, would say no more
8 than 2.3 meals per week. Of course, they
9 don't say that, but that's translating from
10 their reference dose that they use. The
11 Agency for Toxic Substances and Disease
12 Registry makes recommendations to FDA on what
13 to do about controlling these risks. They say
14 three meals a week is fine.

15 And then there is a study called
16 the Seychelles Island Study in which women ate
17 12 meals of seafood very similar to what we
18 had out there, similar levels of mercury.
19 Twelve meals per week during pregnancy without
20 any adverse effects.

21 The guidance for safe yellowfin
22 tuna consumption, this is something I like to

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1 make a comparison of, is that in the United
2 States we're only eating 16 pounds per capita
3 per year. 16 pounds. That's not even one
4 meal a week. So what are we talking about?

5 This is a country that doesn't even
6 eat fish to begin with and we happen to have
7 the most restrictive concerns about eating
8 fish. And in Hawaii, we've got a problem here
9 too because we're eating about three times the
10 national average. And that's a rough estimate
11 of what we do. Of course, I eat a lot more
12 than that. And our recommendation from the
13 State Department of Health is no more than one
14 meal of yellowfin tuna in Hawaii for every two
15 weeks, which is twice restrictive as the
16 national recommendation, which is kind of
17 crazy. Because this is where we actually eat
18 the fish.

19 And then in Japan an estimate of
20 about 154 pounds per capita per year, no limit
21 on yellowfin tuna. Eat. If you're pregnant,
22 eat it.

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1 So what might be good to know about
2 the advisory? The advisory comes with a built
3 in tenfold or a 1,000 percent safety factor in
4 it. So if it says don't eat more than one
5 meal per week, what it really means is don't
6 eat more than ten meals a week. But because
7 of that tenfold safety factor we're actually
8 being very conservative here.

9 So consumption guidance is there
10 for not really the bright line between safe
11 and toxic consumption. That's basically it.

12 The other problem with the advisory or
13 the records dose is that it was not based on
14 exposure to mercury in fish.

15 Now this is the document that came
16 out in 2000 and it is how they developed the
17 new reference dose that's being used. And the
18 statement on the first page says
19 "Methylmercury is one organic form of mercury
20 that can accumulate in the food chain" blah,
21 blah, blah. And then there's a footnote
22 there, and you read on the bottom of the page.

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1 And it says "In this report the term 'fish'
2 includes shellfish and marine mammals such as
3 pilot whales." I don't know anywhere in this
4 world that would consider pilot whales to be
5 fish. And yet in this document they had to
6 include pilot whales into this discussion
7 because it turns out that was the only study
8 of diet in which mercury exposures actually
9 caused, or they have seen adverse health
10 effects. When they've eaten fish, there's no
11 problem.

12 Now these are the key poisoning
13 events and studies that I want to talk about.
14 Minamata is in Japan, and this was a large
15 outbreak of mercury poisoning for eating
16 heavily polluted fish and shellfish.

17 The Iraqi case was something else.
18 It had nothing to do with fish.

19 Faroe Islands study was done on a
20 population of women that were eating and
21 exposed mercury during pregnancy from eating
22 pilot whale meat and not from eating fish.

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1 And there's a New Zealand study in
2 which people were eating sharks and exposed to
3 mercury.

4 And then the Seychelles Island
5 study in which they ate a variety of ocean
6 fish and the average is estimated at about,
7 concentration of about .3 parts per million of
8 methylmercury. And .3 parts per million is
9 what you would find out here in our yellowfin
10 tuna and some of the other fish.

11 Have mercury poisoning events ever
12 occurred from eating open ocean fish? We're
13 talking about the pelagic fish out here; tuna,
14 marlin, swordfish, pelagic sharks. These are
15 the fish that are so important to Hawaii
16 fisheries, and yet they are the ones that are
17 really taking a brunt of the mercury concerns.

18 But there has been no evidence of a problem.

19 No outbreaks.

20 But has mercury poisoning ever
21 happened from eating fish? Yes. In Minamata
22 in Japan in the '50s and '60s. How this kind

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1 of thing happens, not once but twice, is
2 beyond me in over a ten year or how many year
3 period that it occurred. And it was the same
4 company that was dumping mercury into the
5 environment and causing the problems.

6 Look at the fish concentrations of
7 mercury that were found there. 5.6 to up to
8 35.7 parts per million. Right now our cutoff
9 level is at one part per million. And so this
10 is very, very high levels of mercury exposure.

11 And that was caused by uncontrolled
12 industrial pollution.

13 Now the Faroe Islands study, which
14 women were exposed to mercury from eating from
15 "fish," this study found subtle learning
16 defects in the children born to these women
17 that were exposed to mercury from eating the
18 fish. And it's the basis of the reference
19 dose. But pilot whales are not fish. It
20 turns out that the fish that they actually ate
21 cod and haddock, have very, very low levels of
22 methylmercury, but there were higher levels of

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1 mercury in the pilot whale. In fact, that's
2 where most of the mercury was being consumed.

3 So now you ask the question: Is a
4 marine mammal or any mammal as far as a
5 protein source the same thing as eating fish?

6 Well, I think most people would say eating
7 beef is not the same thing as eating a fish,
8 and yet somehow we get to this state right now
9 where pilot whales are considered fish, and
10 we've got a problem with this.

11 Do you have a question?

12 MS. FOY: I do, just really
13 quickly, Doctor.

14 DR. KANEKO: Sure.

15 MS. FOY: Was there any separation
16 between the methylmercury and cadmium, which
17 if I remember right, is another toxin?

18 DR. KANEKO: Oh, yes. A separation
19 in what?

20 MS. FOY: In the study.

21 DR. KANEKO: You mean that they --

22 MS. FOY: The suspected offense?

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1 DR. KANEKO: No, I don't think so.
2 I think it may have been added, but when they
3 looked at just the methylmercury there was a
4 correlation with diminished test scores.
5 There are also problems with the way they
6 tested and either-- test or consistencies,
7 that type of thing. Not to try to badmouth
8 the study, but the point is that pilot whales
9 are not a fish.

10 So we should be looking for a
11 population of people that actually eat fish.
12 And not eat two meals a week, but eat the heck
13 out of it, right?

14 This is the interesting thing, but
15 the Faroese health advisory comes out and says
16 based on the research that they found, it says
17 adults and especially pregnant women try to
18 avoid eating pilot whale. Don't do it during
19 pregnancy. But keep eating fish because
20 you've got to get all the other nutrients.
21 And I think what we've got to do is, you know,
22 there are some people that consider fish to be

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1 mercury delivery systems, that's about all
2 they can think of. If they don't want to eat
3 fish, then they think it's a mercury delivery
4 system, you know avoid it. But if you're an
5 advocate, you say wait a minute. It's a big
6 nutrient package, low fat, protein, low
7 saturated fats, and mega 3 fatty acids and
8 some other nutrients that are very good for
9 us.

10 Now if you look at the Seychelles
11 Island study where people actually eat fish at
12 high rates, 12 meals a week during pregnancy,
13 that group of fish that they ate including
14 skipjack, yellowfin, wahoo, jacks, barracuda
15 and the average that I've seen is about .3
16 parts per million. No whale meat in the diet.
17 And after nine years of testing of those
18 children, no evidence of adverse health
19 effects. In fact, some of the smartest kids,
20 highest mercury exposure during pregnancy.
21 What does that tell you? Mercury makes you
22 smart.

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1 No, mercury doesn't make you smart,
2 but mercury if you are a fish eater and not
3 exposed to any other sources of mercury, a
4 finding of elevated blood mercury and you are
5 a fish eater, it's probably just an indication
6 of fish consumption.

7 Now there's another study that's
8 important for us to understand. It's the
9 ALSPAC study is the Avon Longitudinal Study of
10 Parents and Children. It's a lifestyle study
11 and after teasing through all this dataset
12 that was already on the books, was able to
13 pull out about 8,000 parents or women and
14 their babies and look at testing scores
15 against fish consumption. And what they found
16 is that eating fish is good for the baby
17 regardless of that dietary mercury input.

18 And what else did this study find?

19 This study also found that those women, or
20 the children born to women that ate two meals
21 of fish or less per week, which is the current
22 EPA/FDA recommendation, were more likely to

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1 fall into the lowest 25 percentile of that
2 cohort in verbal IQ and developmental scores.

3 So what does that tell you? It
4 tells us that avoiding fish is causing harm.
5 Wow. So we're trying to run away from the
6 mercury, which is the bogeyman, never been
7 documented as a toxin coming from these fish,
8 and we're pushing people into the direction of
9 harm. That's really a problem. And so this is
10 why we're so excited about telling the story.

11 FDA risk benefit assessment that's
12 occurring now, they are going back to the
13 books looking and basically weighing the
14 health risk and benefits of eating fish,
15 trying not to look at fish as a mercury
16 delivery system but a nutrient package that
17 happens to have mercury in it and other
18 contaminants. They're looking at that balance
19 between risk and benefits, which makes a lot
20 of sense. So that's kind of where this is
21 going.

22 The original draft has already been

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1 floated. We've commented on that, and
2 hopefully they're coming back with a revised
3 and a much better and fairer job that gives a
4 better reflection of the real health benefits.

5 MR. BILLY: This Committee had a
6 briefing on that work a meeting or two ago by
7 Phil Spiller.

8 DR. KANEKO: Okay. Great. Because
9 he's the guy running the thing.

10 So the real danger to babies is
11 that these mercury advisories and those people
12 that continue to perpetuate it are going to
13 scare women away from eating fish. Remember
14 if this country doesn't even eat one meal a
15 week and you talk to people from the Heart
16 Association, for instance, they say you got to
17 eat at least two meals a week of seafood for
18 your heart health and for your brain.

19 We've got a real problem here with
20 all of these advisories going back and forth.

21 So who is the authority and how credible is
22 the message? This evidence from the ALSPAC

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1 study is very, very scary. So we'll see if
2 there's any attorneys in the room when we have
3 that first lawsuit about following government
4 recommendations for avoiding seafood and
5 having kids that are not performing very well
6 in school. I think we'll see things change
7 very quickly.

8 So the conclusion is the dose makes
9 the poison. High, high levels of mercury can
10 be toxic. Low levels or trace levels of
11 mercury that we find in open ocean fish so far
12 doesn't seem to be a problem. And we
13 shouldn't be surprised that there are many,
14 many substances that perform that way. They
15 may be innocuous or even essential at trace
16 levels. They can be therapeutic at
17 intermediate levels. And they can be toxic at
18 high levels. And we shouldn't be surprised
19 about that, although I don't think that there
20 is an essential function for mercury. No one
21 knows that there is an essential function.

22 Conclusions. The type of food

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1 containing the mercury impacts the toxicity
2 and whales are not fish. And this is what I'm
3 going to get to this.

4 Did you guys go to auction, the
5 fish auction

6 Tomorrow. Okay. This is the
7 auction. This is the first 15 minutes of the
8 new auction. This is back in 2004. So
9 there's a fish auction. And what's over here?
10 Oh, it must be the Faroes' pilot whale
11 auction. But anyway, those are pilot whales.

12 Now this gets us to the next part
13 of this talk, and this is really about the
14 selenium mercury interactions.

15 Mercury poisoning has not occurred
16 anywhere selenium was in excess of mercury.
17 Mercury is the only substance known that can
18 sequester selenium in the brain. And so now
19 we have to look at the ratios. The molar
20 ratios or molecular ratios of mercury and
21 selenium is we're basically trying to explain
22 why we need to look at mercury risk in the

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1 context of the available selenium in the body.

2 And that's a whole other topic, but just
3 basically let me get through this and I'll try
4 to answer your question.

5 The selenium was first known as a
6 toxin, which is why people are so concerned
7 about what we're saying, right? At high
8 levels selenium is toxic. But fortunately
9 back in 1957, which is not that long ago, 1957
10 they finally discovered that there is an
11 essential function for selenium.

12 You went from avoid selenium: It's
13 a toxic, it's danger, it's poison, you're
14 killing babies, to there's an essential
15 function. We need a certain amount of it.
16 And this is where that research is going.

17 What are the functions of selenium?

18 Well, it happens to be essential for the
19 major antioxidant enzymes that we have,
20 systems that we have in our body which is
21 going to control the oxidated damage to the
22 free radicals.

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1 So it's considered an essential
2 trace element. And you don't really need very
3 much of it. Daily value right now is 55
4 micrograms. Upper tolerable limit is about
5 400 micrograms per day for the regular adult.

6 Now it turns out that when you look
7 at where we get selenium in the diet, 17 of
8 the top 25 sources of selenium in the American
9 diet happen to be seafood. So the ocean fish
10 are actually very rich in selenium. It's a
11 great healthy source of selenium. And those
12 are some of the numbers.

13 And then selenium health benefits,
14 we look at the antioxidant functions. There
15 are other people doing work on anti-cancer
16 effects that they're finding of selenium.
17 Promotion of immune function. And also the
18 detoxification of metals.

19 So this is a very, very interesting
20 element and it's the source or the focus of a
21 lot of research.

22 Mercury toxic effects. What happens

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1 when a person gets affected by mercury as a
2 toxin? They know that there is oxidative
3 damage to the nervous system and to the brain.

4 So we know that something is knocking out
5 your antioxidant system.

6 Brain selenoenzymes uses selenium
7 dependent enzyme activities are normally
8 unstoppable. It's very, very tightly
9 conserved in the brain because of the need to
10 control any oxidative damage up there. The
11 fetal brain is extremely, extremely sensitive
12 to methylmercury exposure.

13 Now the selenium's protective
14 effect was actually first reported in 1972.
15 So I'm reading through the literature trying
16 to do my due diligence on the mercury issue
17 and I read this paper published in Science
18 that says that yellowfin tuna protects against
19 mercury toxicity. So I got to read this
20 paper. Get the paper, read it and follow the
21 thread of research and to see that these guys
22 that were nutritionist thought that they were

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1 going to solve the problem of mercury in fish
2 and discovered that there was something about
3 some of the vilified species of fish like tuna
4 that was actually producing a protective
5 effect. And they look at it, they analyze the
6 fish and they concluded after many years of
7 work that it was the high levels of selenium
8 and the selenium mercury interaction and
9 binding effects that were responsible for the
10 protective effects.

11 And what happened to these guys?
12 They discovered anti-cancer effects. They
13 became cancer researchers. I mean why would
14 you stick with mercury in fish if you're going
15 to get cancer money, right? So, I mean, come
16 on it's what happened. We lost these guys for
17 about 30 years.

18 Selenium mercury interactions.
19 Mercury normally binds with sulfur in the
20 body, and that's normally with binding to
21 sulfur containing amino acids. That's why it
22 ends up in protein and not in the fat. But

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1 the point is, is that mercury's binding
2 affinity of strength and attraction with
3 selenium is about a million times stronger
4 than for sulfur. So given the opportunity to
5 bind with either sulfur or with selenium,
6 mercury is going to choose selenium every
7 time.

8 Now the mechanism of mercury toxic
9 effects. The old thinking is that mercury was
10 a neurotoxin directly. You eat it, you get
11 sick. New thinking is mercury actually forms
12 as a key layer. It binds the available
13 selenium and it's the selenium deficiency is
14 what we see as mercury toxic effects. And I
15 think it's a much more logical conclusion
16 right now. And this is based on a lot of the
17 work that's been done of the scientists that I
18 collaborated with, who is Nick Ralston. And I
19 don't know if Nick has ever talked to your
20 group, but he's a great speaker and very, very
21 interesting. I've got a few copies of a
22 reprint of one the studies that I'll show

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1 here. And it's up at the table over there.

2 Now recent studies on selenium and
3 mercury interactions in mice done by Nick and
4 his group out at the Environmental and Energy
5 Research Center at University of North Dakota
6 studying health effects of metals. They did
7 controlled diet studies to look at the
8 relationship between mercury and selenium
9 status. And they're basically reconfirming
10 that protective effects, that there are
11 selenium protective effects against mercury
12 toxicity. They've actually even found
13 therapeutic effects. They can artificially
14 create mercury toxicity in the rats; those
15 poor little unfortunate rats. And then
16 supplement them with selenium and have a
17 reversal. That's why I'm talking about
18 therapeutic effects.

19 And this is the basis of the
20 studies. So here's the three rat studies, or
21 the three rat populations, the three different
22 colored lines. That would be low, normal rich

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1 selenium diets. Basically these are weanling
2 rats grown out to about 120 days and no
3 difference in low, normal rich selenium diets.

4 Now we're going to take those same
5 diets and this time add ten parts per million
6 methylmercury. Now ten parts per million is
7 very high. So we expect to get toxic effects.

8 So now there are three diets created that
9 have different molar ratios.

10 The low selenium diet is going to
11 come up with a 500 to 1 methylmercury to
12 selenium molar ratio. There's a normal diet
13 which would be 50 to 1. Fifty to 1 is still
14 pretty high, normal selenium diet. And then
15 the rich selenium diet still at five to one
16 methylmercury to selenium. And let's see what
17 happened when they fed these rats.

18 So those are the diets, and there's
19 a separation of the growth rates. This is
20 body weight, so we're looking at growth. They
21 also are monitoring neurologic signs toxic
22 signs of toxicity which would be impaired

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1 gait, you have a problem walking, hind limp
2 crossing, mortality, death.

3 So this is the separation. So the
4 animals that were receiving a rich selenium
5 diet even at the five to one excess of mercury
6 over selenium, grew at a normal rate and there
7 were no adverse health effects.

8 At 50 to 1 they had decreased
9 growth rates, decreased growth in the green
10 line, but no neurologic signs.

11 And then these poor guys that got
12 the red line, not only do they start to fall
13 behind on growth but they actually lost weight
14 and there were mortalities and severe motor
15 defects.

16 So there's your evidence that this
17 molar ratio is working.

18 They've also taken this same study
19 and at about this point where they're seeing
20 toxic effects, then add mercury back to the
21 diet and see those rats come back up and catch
22 up with the rest of them. That's the

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1 therapeutic effect.

2 Now the risk assessment of dietary
3 mercury, selenium to mercury molar ratio is
4 really the key to a risk assessment.
5 Currently all we're looking at is mercury
6 levels. It doesn't make any sense. Because
7 it's the available mercury or the available
8 selenium that is important. If you've got so
9 much mercury that you no longer have any
10 available selenium, you are not long for this
11 world. But if it's the reverse, regardless of
12 what you're eating: If you're eating more
13 selenium than you are of mercury, along as
14 you're not getting toxic levels, you're going
15 to be okay.

16 In fact, if you're exposed to toxic
17 levels of selenium, you might want to just
18 think about getting yourself some
19 methylmercury. Okay.

20 So this is the study. Simple
21 study.

22 I do the literature review, read

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1 it, try to make sense of it. And then my job
2 the way I see it is to advocate for our
3 fishermen that are out here and look at the
4 risk assessment or the public health risks
5 that are associated with our products. Is
6 mercury really a problem? Well if what I just
7 told you makes any sense and if you believe,
8 and believe me you got to do more reading
9 before you actually want to believe it, is
10 that we should be looking at the ratios of
11 mercury to selenium in fish, not just the
12 mercury alone.

13 So these are our major, oh we have
14 15 different pelagic species, why don't we
15 just do them all. So we looked at yellowfin --
16 well just right across the board. But this
17 blue line here is the molar concentration of
18 selenium and the red lines are mercury. So
19 you can see where anywhere where this blue
20 tower is higher than the red tower, then we've
21 got an excess of selenium and those fish
22 should be delivering us a nice rich health

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1 source of selenium in our diets over mercury.
2 So that's yellowfin tuna, mahi-mahi, skipjack
3 tuna -- that's a real good fish to eat --
4 spearfish, wahoo, albacore, bigeye. The
5 monchong is the pelagic pomfret. Striped
6 marlins.

7 There's the evil boy the blue
8 marlins. You see how big that number is. And
9 although it's extremely, we still have an
10 excess of the selenium. And one thing to note
11 about this one, and blue marlin is a very
12 different animal for some reason.

13 But most of all these fish, total
14 mercury is about 90 percent or above
15 methylated. So methylmercury is the one you
16 got to worry about. But in this particular
17 species it's a much, much lower percentage of
18 the total, so we don't really need to worry
19 about it that much.

20 Opah is the moonfish, escolar.
21 Anybody eat escolar? Do you really? Really?
22 A thrill seeker.

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1 This one is thresher shark. Here's
2 our swordfish at about one to one molar ratio.
3 Mako shark, so we did find one species that
4 has an excess, a molar excess of mercury over
5 selenium. Now remember if you think back to
6 what Nick's study was showing, is that even at
7 five to one excess of mercury over selenium
8 you still have protective effects. So even
9 this we're being conservative in saying Mako
10 shark.

11 Randy, do you eat Mako shark?

12 MR. CATES: No.

13 DR. KANEKO: Hawaii people don't
14 really eat shark very much, you know. We go
15 in the water too much. I don't want to eat the
16 shark.

17 MR. CATES: I'm married to a
18 Hawaiian. It's somewhat of an insult.

19 DR. KANEKO: Yes. This one over
20 here, what's that, PW? That's your pilot
21 whale.

22 So if I asked somebody in the

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1 second grade does that pattern look the same
2 as these? What's the difference? Okay. So
3 we've got a real issue with this. But it's
4 just a straightforward what do we have in our
5 fish study that's pretty much knucklehead kind
6 of research, but it's very important for us to
7 advocate for our fish.

8 And I'm going to stop right there.

9 MR. CATES: What is escolar?

10 DR. KANEKO: Escolar is the white
11 tuna. And you might know it as white tuna.
12 Anybody eat white tuna out there? If you're
13 eating albacore, that's white tuna. But some
14 people are selling in sushi bars now white
15 tuna, and it's just escolar.

16 MR. EBISUI: It's also Hawaiian
17 butterfish.

18 DR. KANEKO: Or if you're in
19 Hawaii, yes.

20 MR. CATES: In Hawaii if you need
21 to cure constipation --

22 DR. KANEKO: No, it's awful.

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1 MR. CATES: That is true, the oil
2 of it.

3 DR. KANEKO: I was supposed to talk
4 for 45 minutes. I got 10 minutes.

5 MR. CATES: That's also a very good
6 fish.

7 DR. KANEKO: All right. I'm done.
8 Do you guys have any questions?

9 MR. RIZZARDI: Yes, I'll get
10 selfish. I'm thinking about my kids and giving
11 them more fish consumption. You take canned
12 tuna and fish sticks and processed foods and
13 benefits, consequences the same or how does it
14 change?

15 DR. KANEKO: Well, it depends on
16 the raw materials. White meat tuna is going
17 to be mostly skipjack, that's great stuff. If
18 I was going to eat canned tuna, what am I
19 looking for? I want solid packed yellowfin in
20 olive oil. So I would say it just depends on
21 what fish is in there.

22 Albacore, again based on these

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1 ratios, albacore turns out to be one of the
2 canned tunas that they tell people to avoid
3 because of mercury. And I say this is not an
4 issue.

5 MR. CONNELLY: Actually, Doctor, I
6 think they say 6 ounces. They don't say avoid
7 albacore.

8 DR. KANEKO: Okay. Yes, not to
9 avoid, but to limit.

10 MS. FOY: Six ounces a week or
11 what?

12 MR. CONNELLY: Yes. I just sent
13 folks something that came out of Time
14 yesterday that it shows the problem with this
15 in the press. Time listed tuna as a terror
16 fish. A terror food that people should avoid.
17 We responded and Time has adjusted their stuff
18 a little bit in an online thing. It's an
19 example of where do we stop the journalism.

20 DR. KANEKO: Well bad news sells,
21 right?

22 MR. EBISUI: You should know that

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1 what Martin fed you folks on Tuesday night was
2 skipjack.

3 MR. BILLY: Then we probably have a
4 good level of selenium.

5 MR. CATES: Doctor, has the FDA
6 changed their position? I mean we heard a
7 presentation. I thought they were doing a
8 revised --

9 DR. KANEKO: I think that's the
10 whole process is to try and get people moving
11 towards looking at their reference of this
12 again.

13 MR. BILLY: My understanding is
14 that the public comment period closed some
15 time ago. I think they received well over a
16 thousand comments. And they've gone through
17 all of those comments. And as a result have
18 revised their model, the one that Phil Spiller
19 presented to us. And also the report
20 obviously that describes the results of the
21 modeling that they've done. And they're about
22 in a position to present that to the new head

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1 of FDA in the next month or two.

2 This Committee recommended that the
3 Secretary of Commerce send a letter to the
4 Secretary of Health and Human Services
5 encouraging reconsideration of the advice
6 based on the work that was done, as I recall.
7 And to the best of my knowledge, that has not
8 happened. So maybe the new Assistant
9 Administrator for Fisheries, who is a part of
10 that, it might be timely to renew that request
11 and see where it goes.

12 Keith?

13 MR. RIZZARDI: I think it's really
14 important that the dialogue increases to the
15 federal level. I just followed up what you
16 just told me, and Environmental Defense Fund
17 is still publishing right now that a child
18 should not use more than four meals in like
19 the canned light tuna skipjack. So that's
20 absolutely 100 percent contrary to what you're
21 educating us on. And, obviously, the
22 information that's out there is a real

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1 problem.

2 MR. BILLY: Yes.

3 MR. CONNELLY: I'd make a motion
4 too that MAFAC encourage the Secretary of
5 Commerce to communicate with the Secretary of
6 HHS to engage fully in the discussions about
7 revising the advisory.

8 MR. FISHER: Second that.

9 MR. BILLY: Any discussion?

10 MR. CONNELLY: If I could just
11 follow-up on why. EPA is a totally different
12 beast in this debate. They hate Phil
13 Spiller's work. They hate that he has worked.
14 They have tried the interagency process to
15 stop the work of Spiller. And so having other
16 departments engage at OMB and at the White
17 House on this critical.

18 MR. BILLY: Yes. Steve?

19 MR. JONER: Mr. Chairman, those of
20 you at the last meeting may recall that the
21 Commerce Subcommittee had made a
22 recommendation that we have a meeting with the

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1 Secretary of Commerce to advise him on these
2 issues, not this specifically but the
3 recommendations on daily requirements --
4 what's that called? Recommended daily dosage.
5 Whatever that is. Which didn't include much
6 fish. And that we, and the doctor explained
7 to us why that is the process it goes through.
8 And every five years they get together. So
9 fish is kind of, you know, the redheaded
10 stepchild in this equation.

11 So I think we should expand the
12 motion to include this overall topic of
13 recommending fish consumption in a daily diet.

14 MR. CONNELLY: I take that as a
15 friendly amendment to include, it's called the
16 Dietary Guidance for Americans. And it's an
17 inter-governmental committee that's looking at
18 this. They report out by the end of the year.

19 So I take that as a friendly
20 amendment to include Dietary Guidance for
21 Americans.

22 MR. NARDI: So what's the motion

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1 now, Mr. Chair?

2 MR. CONNELLY: The motion would be
3 that the MAFAC urges the Secretary of the
4 Commerce to communicate with the Secretary of
5 Health and Human Services and engage fully in
6 the interagency process on the revisions to
7 FDA's advice on tuna consumption and Dietary
8 Guidance for Americans work to reflect the
9 latest science showing the safety of seafood.
10 So Mark can even take that into kind of proper
11 English.

12 DR. HOLLIDAY: We've got two staff
13 there working on it.

14 MR. CONNELLY: All right. It would
15 be for the Secretary of Commerce to
16 communicate with Secretary of Health and Human
17 Services regarding the importance of seafood
18 consumption. Stop. In particular the
19 importance of engaging in any revisions to the
20 FDA advice on tuna consumption and also fully
21 engaging in the Dietary Guidance for Americans
22 process.

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1 MR. BILLY: Yes. Motion's been
2 made and seconded. Any further comment,
3 discussion?

4 Ed?

5 MR. EBISUI: I just have a brief
6 comment that's tangentially related to Pete's
7 comment.

8 Two meetings ago we met in
9 Monterey. I don't know how many of you picked
10 up the Monterey Aquarium's Safe Seafood Guide
11 that was available. And the guidance provided
12 by that is contrary to what was just
13 presented, in that it swayed people from
14 consuming tuna, swordfish, any of the long-
15 line caught species.

16 MR. CLAMPITT: Yes. Well, I think
17 it's important -- you know, I mean halibut was
18 actually largely banned in the late '70s. So
19 when you first said tuna, I raised my hand
20 because I want to make sure it's all seafood.

21 MR. CONNELLY: Yes. I think I
22 adjusted to all seafood.

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1 MR. BILLY: Randy?

2 MR. CATES: I support the motion.

3 I would just bring up an issue that
4 I think it's been about three years now where
5 we've discussed how to communicate with the
6 Secretary of Commerce. And I recall, I think
7 it was in Monterey or maybe before that in our
8 bylaws it says we have the duty to advise the
9 Secretary of Commerce. And I think it's time
10 that we get back to that and try and get a
11 face-to-face meeting. I think the suggestion
12 last time was once a year. That's the only
13 way we're going to get things moving.

14 MR. BILLY: Any other discussion on
15 the motion? Okay. All those in favor?

16 (Chorus of ayes.)

17 MR. BILLY: Opposed?

18 (No audible response.)

19 MR. BILLY: Yes.

20 MR. FISHER: I'd like to ask you a
21 question, sir. Does the methylmercury and
22 selenium actually strip stored mercury from

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1 the body? Is that possible?

2 DR. KANEKO: Well if it's in the
3 brain, most places it's going to form
4 basically a rock. You're going to have mercury
5 selenium bound together. They're bound so
6 tightly that under physiological conditions
7 you're not going to break it apart. What it
8 means is that you sequestered the available
9 selenium.

10 Now are you going to be able to get
11 past that? I don't think so. But are you
12 able to accumulate it without any effects?
13 Marine mammals live that way, that's how they
14 do it.

15 So if you look at people that study
16 mercury and selenium exposure in marine
17 mammals and they find the livers, kidneys,
18 brains are full of mercury, very high levels
19 of mercury but equally high levels of selenium
20 on a one to one molar ratio.

21 So you got to make sure that when
22 you're reading this information that you're

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1 making the distinction between concentrations
2 on a per mass or weight basis versus the
3 molecular.

4 MR. CATES: John, I think I heard
5 the answer to this, but I think it's
6 important. What on an adult, how long is it
7 stored in the body?

8 DR. KANEKO: Well, if you stop
9 altogether? There's a half life, I don't
10 know. I couldn't recite that for you.

11 MR. CATES: I think at the last
12 meeting we were told a month.

13 DR. KANEKO: It could be.

14 MR. BILLY: George?

15 MR. NARDI: Just as a point of
16 information in the aquaculture world
17 specifically in the hatcheries there's a fair
18 amount of research going on including adding
19 selenium to the diets of the young fish and
20 showing that the fish are improved fish for
21 growing. So it sort of just, as an aside,
22 endorses this whole thing.

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1 DR. KANEKO: Right. All those
2 positive effects. They're also added to all
3 animal feed. So, you know, where we been?

4 MR. NARDI: Right.

5 DR. KANEKO: Right? We use it,
6 it's important. And now you're starting to
7 see it in multivitamins. And what is our
8 greatest fear? Is that the advertisers get a
9 hold of it and now selenium is good and more
10 is better. And the only case that I know of
11 of selenium toxicity in Hawaii that was
12 reported is from eating too many Brazil nuts.
13 Someone got on a Brazil nut kick and that's
14 it. So you can eat three or four Brazil nuts
15 in a day and pretty much push yourself right
16 into that toxic level limit. So that's the
17 only thing that I know of that does that.

18 The other thing if I could make
19 just one last little pick, one statement.
20 Because your Committee is very important, but
21 here we are at one side saying you should be
22 eating more than one meal a week per capita or

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1 per person. If we double it to the
2 recommendation, then where in the hell are we
3 going to get all this fish? Just taking this
4 recommendation, the health recommendation, I
5 mean what are we pushing?

6 So we're going to tell people to
7 eat it and then what? There's no fish left.
8 So that's what I wanted to talk about. Some
9 of the other things that we deal with out here
10 in my group, we're dealing with trying to
11 explain the sustainability of our fishery out
12 here because the problems that we are facing
13 with the aquarium, the Marine Stewardship
14 Council, all kinds of environmental groups
15 that say, wait a minute, you guys are fishing
16 out there, you kill sharks. Pick your poison,
17 sharks, birds, turtles, whatever it is. They
18 don't want you fishing. There's anti-fishing
19 people out there.

20 So I just wanted to point out that
21 there are some of these documents that we've
22 just come out with, it's a 20 page document.

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1 And hopefully we can get a lot of to read it,
2 understand it and it's over here on the shelf.

3 The other thing is I will leave
4 some cards, and this is also downloadable on
5 our website. I'll leave these cards here for
6 the website.

7 MR. BILLY: Tony, did you have a
8 question?

9 MR. CHATWIN: Yes, I did.

10 So I found this very interesting.
11 I wanted to understand, first, if this
12 information, these studies are being fed into
13 these processes that we just voted on?

14 DR. KANEKO: Yes.

15 MR. CHATWIN: And what's the level
16 of peer review that these findings have gone
17 through.

18 DR. KANEKO: Oh, these studies were
19 all peer reviewed. Oh, yes, they were.

20 MR. CHATWIN: Yes.

21 DR. KANEKO: But here's the deal.
22 The big question was when the draft study of

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1 the FDA's risk-benefit analysis of seafood
2 consumption, when it came out, when the draft
3 came out for comment I searched the document.

4 Selenium was mentioned I think seven times.
5 And so what were my comments? Here's the
6 literature, go read it. You guys are missing
7 something here. You need to go back and read
8 it. And hopefully that's been effective so
9 that they are -- I mean, how can you ignore
10 this body of research that's published? I
11 don't understand it. I don't quite understand
12 how it was sequestered for 30 years, except
13 that there were no avenues. The selenium guys
14 were now cancer researchers. They don't care
15 about mercury.

16 MR. BILLY: Keith?

17 MR. RIZZARDI: John, is this
18 research line at the salt water fish or does
19 this apply in fresh water too?

20 DR. KANEKO: Well, it applies in
21 fresh water even more so. Because once we get
22 over the hump of ocean fish are normally rich

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1 in mercury and selenium and especially in
2 comparison to their mercury levels, the
3 concern is that we're missing the boat.
4 Because fresh water fish are not uniformly
5 rich in selenium. And if they were exposed to
6 high levels of mercury, you can easily get
7 into the pilot whale thing. That's what we're
8 concerned about.

9 EPA, do your job. You're not the
10 anti-fishing group. You're supposed to
11 protecting the environment, so what are we
12 doing about it? And some of the work that
13 we've done here is also about addressing this
14 question. Is mercury a manmade contaminate?
15 Of course not. It's a natural element. It's
16 on the periodic table. Where it's coming
17 from, where it's deposited, how it's cycling;
18 these are things that need to be worked out.
19 But the changes in the levels of mercury in
20 our yellowfin tuna in Hawaii have not changed
21 in 30 years. And over that 30 year period
22 mercury emissions in the atmosphere increased

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1 by 26 percent. So that is a study that is out
2 there that's done, published and already on
3 the books that would indicate that
4 methylmercury in the ocean environment comes
5 from the depths up, not from the top down.

6 But if you're downstream from a
7 power plant or a coal fired power plant, or a
8 mercury emitting polluting industry living in
9 a small -- dependent on fresh water fish, a
10 bay, receiving all that effluent, you can get
11 into trouble. And I think that that's where
12 we're missing the boat.

13 So you got to get EPA, point them
14 in the direction. You want to go fight crime,
15 go fight crime over here. Because that's
16 where we're missing the boat.

17 MR. BILLY: Well to be a little
18 fair, the states in cooperation with EPA have
19 somewhere in the neighborhood of 2500
20 advisories in place on freshwater lakes,
21 rivers, streams. And if you buy a fishing
22 license you often see advice about consuming

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1 what you catch.

2 MR. RIZZARDI: But you're acutely
3 aware of the issue and informed.

4 MR. BILLY: Okay. That's that
5 system that's in place and in part addresses
6 the concern about methylmercury.

7 MR. RIZZARDI: But I guess the core
8 of my question is the selenium mercury
9 relationship and if we have the same sort of
10 information on the fresh water fish.

11 MR. BILLY: EPA ignores selenium.

12 MR. RIZZARDI: That's the issue.

13 DR. KANEKO: Well, hopefully we can
14 start looking at it. But you're right, those
15 advisories on mercury are there. Okay?

16 MR. BILLY: Okay. Thank you very
17 much.

18 Oh, Randy, one last question?

19 MR. CATES: John, I think you hit
20 on a very important that I'm concerned of, and
21 that is if there seems to be a resistance to
22 get this information out due to the fact that

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1 it will increase pressure on the fishing
2 resources. And I know for a fact that that's
3 a concern within NOAA. The answer is to the
4 problem of how we're going to meet the future
5 demands, and that's where aquaculture plays a
6 role. But I think it would be a crime to
7 sequester this information based on we don't
8 want to increase the fishing pressure of our
9 resources. And that's something that's been
10 discussed several times in meetings.

11 MR. BILLY: Okay. Thanks, John.

12 DR. KANEKO: Okay.

13 MR. BILLY: Okay. We've already
14 had our break, so we're going to move on to
15 the last item on this morning's agenda, and
16 that deals with a relatively new report from
17 the Department of Commerce Inspector General
18 regarding NOAA enforcement. And Sam Rauch is
19 going to brief us on the report and the
20 current status of the issues associated with
21 it.

22 MR. RAUCH: Thank you.

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1 So I'm Sam Rauch. I don't actually
2 oversee the enforcement branch of the
3 Fisheries Service. That is done through the
4 other Deputy John Oliver. Nor do I oversee
5 the enforcement attorneys. They all report
6 directly. But I am familiar with both, and so
7 I will give you the report, the background and
8 synopsis of that.

9 So this is the background, and I
10 apologize for the typo in enforcement.

11 In June of last year Dr. Lubchenco
12 asked the Commerce Inspector General to
13 conduct a comprehensive nationwide review of
14 policies. There had been some pressure in the
15 northeast, particularly some defendants have
16 claimed that they had been unfairly singled
17 out, which is actually quite common with any
18 law enforcement effort where potential
19 defendants try to in order to defray the focus
20 on them, try to make public announcements.
21 But they were particularly successful given
22 all the things that are going in the

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1 northeast.

2 Dr. Lubchenco decided, though, that
3 it wasn't useful to just look at the northeast
4 in isolation, but to ask the IG to do a
5 nationwide review of all the policies that
6 were going on.

7 The Inspector General talked to a
8 lot of people, and I'll talk about some of
9 those things in a minute. Issued its final
10 report on January 21st and Dr. Lubchenco
11 issued a response shortly thereafter, on
12 February 3rd. And I will outline both the
13 findings of the IG report and what actions Dr.
14 Lubchenco has taken in response to that, in an
15 immediate response to that report.

16 So as I said, the IG went and
17 interviewed a lot of various people they
18 called the complainants. They did not make an
19 effort to verify the individual complaints.
20 They did list a whole bunch of them. And the
21 report is on the website. So if you would like
22 to see what everybody was saying.

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1 And you will see from the results
2 most of the things that the industry raised,
3 the IG did not find it meritorious to address.

4 But these are the kinds of things, mainly
5 that the regulations were complicated, unclear
6 and confusing. And for those of you who sat
7 through the catch shares discussions of our
8 existing catch share programs you'll
9 understand. That is true.

10 I don't know whether they're unduly
11 complicated, but they are complicated, unclear
12 and confusing. And it is difficult for a well
13 meaning fisherman at all the times to keep
14 track of all the changes and where they're
15 supposed to be, what they can catch and all
16 that. A lot of that is created by the Council
17 process. Because we're trying to balance out
18 the need for clear mandates, we have the
19 flexibility to try -- economic benefit. So
20 that's as far as it's true.

21 They were concerned that the
22 regulatory processes were, in their view,

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1 arbitrary and lacked transparency.
2 Particularly they were concerned by what they
3 thought was the power given to the NOAA GCEL
4 attorneys. GCEL is General Counsel for
5 Enforcement and Litigation.

6 And the process for those of you
7 aren't familiar is our Office of Law
8 Enforcement is the investigative branch.
9 They're basically the policemen. They will go
10 out, often times in conjunction with state
11 enforcement agents, prepare a case, refer the
12 case then to General Counsel for enforcement
13 litigation. General Counsel would ultimately
14 decide whether to bring charges or whether to
15 set the penalty.

16 So once the police officers OLE are
17 done, it's up to GCEL to decide what to do
18 with it. That's very similar to any
19 prosecutor's office where you've got the
20 policemen doing the investigation and then the
21 prosecutors decide. You've seen Law and
22 Order, that's exactly what happens.

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1 And then so they also complained
2 that because of the broad powers that the
3 Fisheries' enforcement posture is aggressive
4 and intrusive.

5 So the IG looked at all of that and
6 made three basic findings, three basic
7 results.

8 One was that the senior leadership
9 in headquarters elements needed to exercise
10 rigor management and oversight of the regional
11 enforcement situations. The basic for this
12 was they had all these allegations and they
13 came asked CG and OLE well what do you have to
14 say about that? And they provided
15 explanations, but they weren't able to back it
16 up. Because each enforcement case is
17 different. But there was no overarching
18 reviewing of these documents. The individual
19 enforcement attorneys did not have to seek
20 approval for their actions. They were
21 concerned that NOAA as a whole was not
22 engaging in oversight. Were we spending our

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1 enforcement resources in the right place as
2 opposed to the initiative of the individual
3 enforcement agent?

4 And while I think we had responses
5 to that, we weren't able to document it in a
6 comprehensive way. Because we lacked a
7 management review system that was effective.
8 We couldn't gather the information on fines
9 and penalties that they wanted. Within that
10 you'll see if you read the report, they found
11 that the fines in the northeast were excessive
12 compared or were not in proportion to fines in
13 other places in the country. And our
14 enforcement people indicated well there's a
15 reason for that. But since we didn't have a
16 good database, they weren't able to articulate
17 how that was. And you can read through the IG
18 report and there's great frustration with the
19 fact that we couldn't provided them useful
20 data in a useful manner.

21 The second one --

22 MR. SIMPSON: Now we're talking

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1 northeast?

2 MR. RAUCH: This is across the
3 country. This is a national one. They did
4 find in the northeast that the amount of
5 penalties issued, that the settlement amounts
6 were different from those ratios elsewhere in
7 the country.

8 MR. SIMPSON: Right. But the
9 management tracking and so --

10 MR. RAUCH: Management tracking is
11 all national. The faults they found were
12 national faults. They talked to people around
13 the country and these were national faults.

14 Number two deals with the guidance
15 and internal controls. They found that GCEL
16 did not have an internal operations manual.
17 That there wasn't as I indicated an approval
18 process for individual charging decisions, and
19 a number of other internal controls were
20 lacking. They did not necessarily find that
21 it was arbitrary, but it said that the lack of
22 their ability to comprehensively look at what

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1 we were doing and to say that there were
2 supervisory control led to a perception that
3 it was arbitrary and unfair. They didn't have
4 enough information to determine on their own
5 whether it was arbitrary or unfair, and I
6 think that comes out through the report.

7 The last one that they found is
8 that they looked at the fact that 90 percent
9 of the OLE, which is the police officers
10 basically, were criminal investigators. Ten
11 percent were uniform patrolmen, regulatory
12 officers. And they were mindful of some of
13 the complaints that said this led to a
14 criminal mentality on the part of the
15 fishermen. That there is an important
16 distinction that other agencies make between
17 criminal investigative work and regulatory
18 investigative work. And some tools that are
19 available on the criminal side are not
20 available on the regulatory side. And other
21 agencies make a strong effort to separate the
22 two processes and we don't.

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1 They did not necessarily say that
2 the composition was wrong. They did recognize
3 that we have much less enforcement agents than
4 some of these other agencies that they've
5 looked at. But they said we need to reassess
6 whether that's the right composition. And
7 they did find that the blurring of the line
8 between criminal and regulatory missions and
9 then the fact that we have those criminal
10 investigator have at least led to the
11 perception that we have overly aggressive
12 criminals. And once again, they didn't have
13 the data to actually say this was wrong, but
14 they just suggested that we needed to reassess
15 the workforce composition.

16 So here's the recommendations. They
17 have five of them.

18 The first one was to ensure that
19 the leadership regularly addressed and provide
20 inputs into the priorities with regional
21 management including reporting protocols. And
22 they asked that we consider re-establishing a

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1 position that we apparently had in the 1990s
2 about an ombudsmen to serve as the interface
3 with the regulated industry.

4 This gets to the issue of is NOAA's
5 leadership and is NMFS leadership involved in
6 enforcement both as a priority, but as in
7 terms of how you're sitting not on individual
8 cases, but on individual enforcement
9 strategies. Should we be trying to enforce
10 protected species more in this area? We need
11 to align our enforcement efforts with the
12 efforts that we're currently undertaking in
13 terms of overfishing with regional priorities,
14 and things like that.

15 The next one is to determine
16 whether we should continue to approach in this
17 enforcement probe the criminal investigative
18 standpoint or to more focus on our regulatory
19 mission given that the majority of the cases
20 are regulatory cases.

21 Now OLE would say that may be true,
22 but the majority of the time spent on the

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1 cases is on the criminal cases. The few
2 criminal cases take up the inordinate amount
3 of time. What the Inspector General looked at
4 was the sheer number citations issued. And
5 they issue a lot of fix-it tickets, a lot of
6 small things that doesn't take the enforcement
7 agents a lot of time.

8 I think the problem here is, once
9 again, we were unable to bring a coherent set
10 of statistics to the plate because we didn't
11 have the good management oversight system as
12 to what was really going on. And so they felt
13 like they were being asked to take our word
14 for it, and that's not something the IG likes
15 to do.

16 So you will see in the report
17 several times they said NOAA's explanation was
18 unverifiable and therefore unauditible. And
19 that's why we get recommendations like this.

20 In terms of GCEL, these are the
21 attorneys, the prosecutors. There were a
22 number of specific actions in terms of their

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1 own internal processes to be more transparent,
2 more clear as to what the simple penalty
3 process is.

4 A mechanism for high level reviews
5 so that it is just not just a decision of the
6 individual attorney, but that they did some
7 higher level review. As an example they
8 recommended a panel by NOAA headquarters, and
9 then they wanted to make sure that law
10 enforcement operation manual was current in
11 providing better policy guidance as to when
12 you use regulatory authorities or criminal
13 authorities.

14 The last two, GCEL had in the midst
15 of this recommendation on their own undertaken
16 a suite of actions designed to do some of the
17 things that the IG was about to require,
18 including updating their manual, reviewing the
19 revisions to these regulations, and there's
20 some other things in there. They wanted to
21 make sure we followed through on those. They
22 actually commended GCEL on that initiative,

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1 but obviously it wasn't done.

2 And then finally for both GCEL and
3 OLE to develop and implement better integrated
4 case management information systems so that
5 you can systemically try to answer these
6 questions. And it won't take as long as it
7 took to try to find out these answers.

8 So those were the recommendations.

9 As I said, about a week and a half
10 after it came out, Dr. Lubchenco issued a
11 letter which is also in your materials
12 outlining both immediate actions and longer
13 term actions to address the responses. This
14 is not the end result. We will more fully
15 respond to the IG's report in a normal
16 process. That generally takes several months.
17 But this was the immediate response.

18 One is within GCEL to institute
19 higher level reviews of the charging decisions
20 to the extent that it can be done consistent
21 with Labor laws. Given that GCEL is unionized
22 there might be a sense that this may be a

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1 change in working conditions that you may have
2 to bargain for. You wouldn't think so, but
3 that's why it says what it says.

4 Immediately do a freeze on hiring
5 criminal investigators pending a workforce
6 analysis. That's not a freeze on hiring
7 enforcement agents. But if they hire them
8 until we're done with that analysis, they'll
9 have to be the regulatory uniformed officers
10 and not the criminal investigators.

11 There was an issue, several of the
12 complainants had complained that there was an
13 appearance what they thought was a perverse
14 incentive given that the fines and penalties
15 that come out of the regulatory program go
16 into a fund controlled by NMFS which by
17 statute can be diverted back into doing things
18 like the Magic System and training and other
19 things. And they believed we could not
20 adequately account for how that fund was used.
21 Even though the Inspector General did not say
22 anything about this other than to say that was

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1 the issue, Dr. Lubchenco wants to transfer the
2 oversight of that fund from Fisheries to the
3 NOAA Comptroller which manages other kinds of
4 funds like that in order to approve our
5 ability to audit the uses of those funds.

6 NOAA's directed Fisheries and other
7 communications elements to direct resources to
8 improve communications across the board on
9 Fishery issues, particularly in the northeast
10 which many of you know we have very frayed
11 relationships up there. And to immediately
12 develop plans to hold a law enforcement summit
13 with the general public about this report and
14 law enforcement priorities prior to June, or
15 prior to the end of June.

16 Long term actions. Develop a
17 strategy to improve the information systems
18 that we've got. Clearly, this was something
19 that underlay everything that the IG said was
20 their frustration, and in turn the public's
21 frustration about being able to get broad
22 scale statistics. Of course, we cannot give

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1 out details of individual cases, but you can
2 give out broad scale statistics and let people
3 know systemically what kind of things are you
4 bringing cases on. The IG was very frustrated
5 that even with internal access to the
6 information they couldn't get out this
7 information.

8 To look for standardized procedures
9 for setting enforcement priorities -- this
10 gets back to the penalty schedule and other
11 kinds of things -- and also to involve the
12 leadership at a regional level and at a
13 national level. We're looking and saying are
14 we taking our limited enforcement resources
15 and putting them on the right things?

16 General Counsel to strengthen the
17 operating procedure in prosecutions of cases.
18 This is basically to follow through on their
19 plan from December.

20 An outreach strategy in general,
21 not just a targeted communications strategy
22 from before but a broader.

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1 And a plan to work with workforce
2 management to look at the enforcement staffing
3 including not only the composition, the ratio
4 of criminal to regulatory agents, but also
5 looking at the procedures and making sure that
6 criminal procedures are not being
7 inappropriately applied in civil cases.

8 So that was the report. I think I
9 was asked to give this report, but Tom asked
10 me what I would like this Committee to do. At
11 this point I don't know that there's anything
12 that's safe for the Committee to do.

13 The Committee could, if they wanted
14 to, engage in a review of this; like the
15 Inspector General, they could come in. I
16 mean, my sense of this is that a lot of this
17 is being motivated -- you see this, because I
18 came from DOJ. Keith came from DOJ. This is
19 not unlike you've seen from any regulated
20 entity in which people complain because they
21 have been caught.

22 Now most fishermen comply with the

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1 rules, but a few don't. And they get caught.

2 And when people get caught, they complain.

3 So there's always this tension between

4 excessive police force and complaining

5 defendants. Nevertheless, we do need to look

6 at these kinds of things and make sure we're

7 doing the right kind of things. And we

8 certainly need to be better able to explain

9 why we're doing what we're doing, at least on

10 a general thing. We should not get into the

11 deals, individual cases. But across the board

12 I think it is legitimate to ask: Why are you

13 sending your enforcement people to investigate

14 this kind of program? In general? That's a

15 valid question. And we were unable to answer

16 that question to the IG's satisfaction, which

17 comes out there. And so I think that's a

18 legitimate kind of thing to do.

19 I don't know whether the Committee

20 would like to be involved in that. But it

21 should be aware that this is what's going on

22 and that there will be a more formalized

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1 response to the IG's report later. And just
2 recall, this is what Dr. Lubchenco has asked
3 the IG to do, to do this. So we do view this
4 as a constructive opportunity to come in and
5 make sure we're on the right path.

6 So I'll be happy to take questions.

7 MR. BILLY: Yes, thanks.

8 Questions or comments? Keith?

9 MR. RIZZARDI: While I came from
10 DOJ, these days I am head of the environmental
11 work that enforces wetlands violations in
12 Florida. And one of the things that we do in
13 seeking our prosecution of cases is we kind of
14 adopted EPA's penalty matrix. And EPA uses an
15 approach which might be really helpful for you
16 to take a look at, Sam.

17 They categorize violations into
18 major and minor. And they say is it
19 environmentally major, where it's
20 environmental harms, it's major or minor. And
21 were the procedural violations major or minor?

22 And that often is tried in a wetland context.

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1 For example, you go out, you fill a
2 wetland, you cause massive environmental harm
3 and you had no permits whatsoever. That might
4 be classified as major/major. Whereas, a
5 person who did get a permit, didn't comply
6 with some of the permit conditions and caused
7 smaller environmental harm might be
8 minor/minor.

9 So there's an effort to try to
10 categorize them. And then when taking the
11 enforcement action to treat them accordingly
12 and settle accordingly.

13 And EPA has a well-thought-out
14 policy on this which gets used by state
15 organizations like mine. There might be an
16 opportunity for this Committee to help shape
17 that kind of macro-level direction for NOAA in
18 determining what a penalty matrix might look
19 like.

20 MR. RAUCH: So there is a published
21 penalty schedule that GCEL uses. I think the
22 complaint, though, is that the individual

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1 attorneys have great discretion to deviate
2 from that schedule and don't have to document
3 or seek higher level review of those
4 decisions, which creates the impression that
5 everybody is complying with that schedule but
6 certain individuals don't. And it's hard to
7 explain.

8 You talked about factors. And I
9 think the schedule could be -- and one of the
10 things that we're going to do is to look at
11 revising that schedule. It could be more
12 fine-tuned to discuss the severity of the
13 offenses and other kinds of things. I'm not as
14 familiar with the schedule because I'm not on
15 that side of NOAA.

16 What the complainants said, they're
17 concerned. They don't understand why the
18 deviations occur. And we don't do a very good
19 job of being able to explain that, even on a
20 macro level.

21 But clearly the IG did look at
22 other agencies -- EPA was one, Fish and

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1 Wildlife Service was another -- as more models
2 of what we're going to do. They have a bigger
3 enforcement program than we do. But it is a
4 model that we're going to be looking at.

5 MR. BILLY: Terry?

6 MR. ALEXANDER: Yes. I have an
7 example of how the Northeast -- why the
8 Northeast thinks that it's been mistreated, I
9 guess.

10 I think maybe the way that we
11 regulate in the Northeast, there are so many
12 lines and stuff going everywhere that it's a
13 wicked complex. I mean, on each boat I have a
14 folder that thick of papers that -- I mean
15 literally, if you're in a place and you're
16 alone, you'll whip out that book and start
17 looking to see if you're supposed to be there.

18 Okay. I mean it's that bad. You're nervous
19 the whole time you're fishing. And, you know,
20 it's that complex.

21 And we have these things called
22 rule enclosures. And every time one is coming

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1 up, I'll let the captain know -- there's one
2 coming up. You know, watch out for it. Well,
3 one night -- middle of the night, rough
4 blowing -- he sets out, he should have set
5 south, he set north. So obviously the NMFS
6 enforcement found him there -- hey, what's
7 your boat doing in the enclosure? And I
8 called him up. I said what are you doing in
9 the enclosure? And he said, I forgot.

10 So, you know, they call us home.
11 They seize the trip, costs us money for that,
12 but that's neither here nor there.

13 On that particular instance they
14 took just the seized trip, okay. My other
15 boat -- middle of January, blowing 40 miles an
16 hour, he's a 100 miles off shore -- it's a 40
17 foot boat, you know, it's really crappy out.
18 He drifts over a line, they called me out. He
19 came home. They seized the trip again. And I
20 ended up paying a \$8500 fine on that, plus the
21 seized trip.

22 So I mean there really isn't any --

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1 it's the same violation, but there really
2 isn't any consistency in the way. So I think
3 that probably guys think of it as, well why
4 did -- and that was me in both instances
5 negotiating with the lawyer down at NMFS. So,
6 I mean, I think that's why people think that
7 it's unfair. And I realize that they have
8 discretion in dealing the fines, but I mean it
9 was one captain's first violation and the
10 other captain's first violation. You know, so
11 there really wasn't -- so --

12 MR. RAUCH: So just if I could
13 explain.

14 MR. BILLY: Sure.

15 MR. RAUCH: So there's two points.
16 First, I think that's exactly what the IG
17 thinks. There may have been a reason. It was
18 hard to articulate that across the board. I
19 mean different cases are different. And so
20 there may be a reason, but it was not very
21 clear. And if it's all done by individual
22 attorneys and there's not a supervisory level

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1 -- the supervisors could at least provide
2 consistency across the board. So I think that
3 was one thing.

4 But more fundamentally, at the
5 beginning you talked about the very complex
6 situation. The IG said did not come in and
7 say there was anything we could do about that.

8 MR. ALEXANDER: Yes.

9 MR. RAUCH: I think that that's a
10 difficult thing to do. The regulations were
11 not developed necessarily by the Fishery
12 Service or OLE or GCEL. They were developed
13 by the Council. And the reason that they are
14 so complex, I mean, you can make it a very
15 simple regulation. But you're not going to be
16 able to catch as much fish. So they're so
17 complex because we're trying to carve out
18 these little areas that maximize opportunities
19 through the Council process. And it creates
20 these really confusing regulations for the
21 fishermen. And I don't know where the answer
22 to that is.

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1 That's something that we've
2 discussed amongst NMFS leadership and we want
3 to discuss with Council chairs when they come
4 up about what can we do to try to simplify
5 that. I mean, we try very hard to explain
6 these complex regulations and put out a
7 fisherman guides and everything else. But
8 that doesn't change the underlying effect that
9 the regulations are really complex. Because
10 they've got all these different exceptions.
11 And it's going to get worse in the New England
12 sectors.

13 MR. ALEXANDER: Yes.

14 MR. RAUCH: So I don't know what
15 the answer to that is.

16 MR. ALEXANDER: Well, I mean, you
17 can blame it on the Council for making these
18 rules. But those rules were approved by NFMS
19 or not, you know what I mean? So if they
20 throw something to NMFS and they don't like
21 it, they're going to throw it back. So, I
22 mean, ultimately the Council puts the rules to

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1 them and then they approve or disapprove. And
2 you want to kind of --

3 MR. RAUCH: Yes. That's what we're
4 going to talk about with the Councils
5 together, or the Council chairs.

6 MR. ALEXANDER: Right.

7 MR. RAUCH: It's a joint problem.
8 And I'm not really sure what the good answer
9 is.

10 MR. BILLY: Paul?

11 MR. CLAMPITT: Yes, I have a
12 question. I'm wondering if the enforcement
13 officers get points for collecting fines?

14 MR. RAUCH: No.

15 MR. CLAMPITT: Well, the question
16 is because -- Northeast isn't alone in their
17 complaints with these regulations and how
18 they're enforced.

19 One of my big gripes is, I mean if
20 you've been in this business long enough,
21 you've been fined for one thing or another.
22 And we received a fine, it was a VMS

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1 violation. And I won't bore you with all the
2 details, but we would have won that case in
3 court. And it came down to a negotiation.
4 And my attorney said yes, you'll win. It'll
5 cost you \$50,000. And so the attorney from
6 NMFS says, well, then we want \$27,000. And I
7 said no. And then he calls me back and says,
8 okay, we'll take 14,000, but if you get
9 another fine, we're going to get the other 27
10 back. I said, forget it.

11 I mean, you get a fine for going
12 one pound over on a trip, I'm not going to
13 sign that. And they said okay, just give me
14 14 grand, and that's the way it was settled.

15 So I've got a problem with that.

16 MR. RAUCH: So let me not talk
17 about the details of your case, because I
18 don't know that. But that's what settlements
19 are. I mean, settlements are -- the statute
20 says you can go to court, and you go, and that
21 wastes a lot of people's time. And in general
22 -- I mean, you may have won your case. I

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1 don't know -- but in general the defendants
2 usually lose. By that time if you go to
3 court, the defendants usually lose, because
4 the Government does not necessarily bring that
5 case. Occasionally that's not true, but if
6 you look at the statistics of DOJ and state
7 prosecutors, county prosecutors, defendants
8 almost always lose. So it costs a lot of
9 money.

10 And what they try to do --
11 everybody from the county DA to the federal DA
12 to the NMFS is -- is there a way that we can
13 avoid that? And you will give up on some of
14 the penalties for the things, if you don't go
15 to court. But if you go to court, well,
16 you've now incurred all this time. You're
17 going to pay the maximum penalty.

18 I mean, when I go to try to settle
19 a traffic ticket, it's the same way. You
20 know, I can either pay \$90 now and not a big
21 deal if I'm paying the fine. Or I can go to
22 court. I may end up in jail if I lose, you

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1 know, or whatever. That is a standard
2 approach to enforcement that happens --

3 When you read in here that some of
4 the complainants complained that the agents
5 were cutting deals. They said, you know, we
6 will settle at this low rate, and so we
7 encourage you to settle. That's absolutely
8 true. There is not an enforcement prosecutor
9 in the country that doesn't do that.

10 They don't try to negotiate down
11 and try to get something good because, you
12 know, they're likely going to win but it is
13 not a useful use of taxpayer money to try to
14 do that when you can try to do some good.

15 So your case may have been
16 different. I don't know.

17 MR. CLAMPITT: Well, I won't go
18 into my case. That's not important. But part
19 of this is the way evidence is used. For
20 instance, you know, we carry observers on
21 board.

22 MR. RAUCH: Right.

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1 MR. CLAMPITT: And in my opinion
2 that's mostly for enforcement reasons. They
3 don't use much of the data for science as far
4 as I can tell. And so if a boat is fined, you
5 know they go back to the logbook and see if it
6 matches what the observer saw. And if the
7 observer comes back, you're in big trouble.
8 But if the observer sides with the vessel and
9 says, oh yes -- no, he was here and he wasn't
10 in that area or whatever, well, the observer
11 doesn't know anything. They're on that boat
12 for doing something else. That's happened,
13 many times.

14 So the evidence is used, I guess
15 that's the way the American justice system
16 works or what? It's used only at their
17 convenience.

18 MR. RAUCH: I'm not going to
19 respond to that.

20 MR. BILLY: Heather?

21 MS. McCARTY: I'll pass.

22 MR. BILLY: Keith?

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1 MR. RIZZARDI: But enforcement is
2 messy. It's always going to be case- specific.

3 And if you could just take it out of this
4 context, just think about criminal law. All
5 over the country there's plea bargains that
6 take place. And a defendant could get a
7 better plea bargain in one county than they
8 got in the other for the exact same crime.
9 That's going to happen. It's the nature of
10 settlements.

11 So to some extent you can't look at
12 NOAA and expect an absolutely perfect across-
13 the-board settlement policy that achieves the
14 exact same outcome in every single
15 circumstance. It's just not ever going to
16 happen.

17 What you can hope for is a policy
18 that steers the Council who is enforcing the
19 case in a reasonable direction, so that like
20 cases are treated similarly, not identically.
21 And second, make sure that you have a
22 supervisory mechanism -- like the OIG report

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1 is calling for -- that ensures that there's
2 some degree of review and consistency in that
3 process.

4 So, you know, none of this
5 surprises me. It's the same thing that every
6 entity that does enforcement is wrestling with
7 all over the country. And I guess, you know,
8 I'm looking at you, Sam, to see what kind of
9 direction would you like, and what would you
10 like to see MAFAC take up? I mean, we could
11 certainly work on a penalty matrix.

12 MR. BILLY: I'd like to provide
13 some comments. In my past life I worked for
14 two regulatory agencies, the Food and Drug
15 Administration and the Food Safety Inspection
16 Service. And just some recollections from
17 those experiences.

18 One is that it sounds like the
19 ratio of criminal enforcement to the basic
20 enforcement is significantly out of whack.
21 And both FDA and FSIS ratio was the opposite.
22 It was 90 percent just enforcement and ten

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1 percent, roughly, criminal enforcement.

2 And part of the rationale was that
3 the basic idea was to get compliance with the
4 regulations. And an approach, a strategy that
5 encouraged that through information and
6 education and so forth got you the old rule of
7 thumb that, you know, 90 percent of the people
8 are going to comply if there is adequate
9 information and the right incentives to do so.

10 And you focus your energy on the 10 percent
11 that are going to be problematic in complying
12 with any kind of rules or whatever.

13 So it's the general observation
14 that I just was struck by that in comparison
15 to what the report said. And it sounds like
16 you're thinking about looking at EPA, but I
17 might encourage you to look more broadly at
18 other regulatory agencies, because there might
19 be some useful information experience there.

20 The second point is, one of the
21 things I instituted as the Administrator of
22 the Food Safety Inspection Service was a

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1 public report that came out quarterly that
2 identified all the pending cases. And you had
3 to be discreet in terms of what it was about -
4 - you know, as it moved into the criminal
5 arena, then you had to be fairly cryptic in
6 terms of what information was provided. But
7 nonetheless, what was important was the public
8 at large and the regulated industry could see
9 on a continuing basis the actions that were
10 being taken, and feel comfortable that there
11 was in fact enforcement and the types of
12 enforcement that was being carried out.

13 The other thing that I think that
14 helped was getting more even approach
15 nationally. Because it was summarized
16 together, it was all there and it stood out
17 when you saw disproportionate kinds of things
18 happening.

19 And so, again, I don't know what's
20 possible in the Fisheries enforcement area.
21 But I would encourage the greatest
22 transparency possible for a number of reasons,

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1 including the ones I've mentioned.

2 So those are just some comments I
3 wanted to share in terms of my experience in
4 this area.

5 MR. RAUCH: So can I respond?

6 MR. BILLY: Sure.

7 MR. RAUCH: So on the first issue
8 of staffing, it is true that 90 percent of the
9 investigators are criminal.

10 MR. BILLY: Right.

11 MR. RAUCH: But 98 percent of the
12 workload is regulatory. So they only bring
13 two percent of the criminal cases. So in
14 terms of the cases they're actually bringing,
15 they're not bringing very many criminal cases.
16 They are still mainly focusing on the
17 regulatory approach. And what the IG is
18 commenting on is, why then do you need so many
19 criminal investigators if that's the workload?

20 And in terms of the EPA, I
21 mentioned the EPA and Fish and Wildlife
22 Service because I think those are the two that

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1 the IG looked at. I think we will try to look
2 at a broad sweep of those and try to look at
3 whether or not that's the right ratio, and
4 also look at what processes do these other
5 agencies have in place to make sure that they
6 only use criminal procedures in criminal
7 cases.

8 In terms of the quarterly report, I
9 do think it's a good idea. Clearly IG's
10 frustrated that we couldn't even internally
11 provide that kind of overarching view. And so
12 we need to figure out a better way to get a
13 handle on that nationally.

14 And then I agree, I think as part
15 of the outreach strategies that we've
16 identified, we need to find effective ways to
17 communicate that, bearing in mind that we do
18 have to be, as you say, careful with how you
19 portray that. There should be a document you
20 can look at and look at national kind of
21 things.

22 MR. BILLY: Absolutely.

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1 MS. McCARTY: Mr. Chairman, maybe I
2 will ask a question because it's kind of what
3 we're getting at.

4 Ninety-eight percent of the cases
5 are not taken to criminal court?

6 MR. RAUCH: Yes.

7 MS. McCARTY: Okay. I'm assuming
8 you have guidelines as to when it goes and
9 when it doesn't. How does that get decided
10 and by whom?

11 MR. RAUCH: So, ultimately DOJ has
12 to decide to take the case. So if it were
13 going to go criminal, DOJ would have to be
14 involved. And they do have some internal
15 guidelines through the Wildlife section --
16 well, I guess it's the environmental crime
17 section now -- as to what kind of cases can be
18 brought criminally and what cannot. Those are
19 DOJ guidelines.

20 MS. McCARTY: Okay.

21 MR. RAUCH: We can refer those.
22 And I think our referral policies are not very

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1 strong in terms of our own agency -- but there
2 is those DOJ policies which overlay them all.

3 We will only refer the kind of cases that DOJ
4 has already told us they will bring.

5 MS. McCARTY: Okay.

6 MR. BILLY: In the Food Safety
7 Inspection Service as the Administrator, I had
8 to sign off on any case that was going to be
9 referred criminally --

10 MR. RAUCH: That's the case with
11 Fish and Wildlife Service, but not with us.

12 MR. BILLY: Before it went. Now,
13 in my five years as Administrator I don't
14 remember ever reversing a recommendation. But
15 nonetheless, there was a check and balance in
16 place. And I did look at those cases and get
17 comfortable with what they were about, as part
18 of that process.

19 MR. RAUCH: So I think that the
20 lack of the oversight -- well, let me just say
21 I don't think the IG was overly concerned
22 about the criminal referrals. If you look at

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1 the complaints, that wasn't an issue. It's
2 only two percent of the cases. But yet, that
3 doesn't mean that we shouldn't institute
4 something like that. There is not that
5 approval process in order to refer things
6 criminally, and there are in certain other
7 agencies.

8 They're more concerned about --
9 within the regulatory program, are we using
10 criminal enforcement methods on the regulatory
11 side? And what -- you could refer to the
12 court, but some of them are million dollar
13 penalties being assessed. And who reviews
14 those before they get assessed? And those
15 would not necessarily be the Fishery Service,
16 but those would be NOAA, because NOAA's
17 General Counsel reports directly to NOAA.

18 MR. BILLY: Comments, questions?

19 Yes, Paul?

20 MR. CLAMPITT: Well, I thought your
21 comments were right on, Tom. I think what's
22 going on is, we're being treated as criminals

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1 for small regulatory accidents. I mean, you
2 know people aren't doing things -- if
3 somebody's stealing fish, it should come down
4 hard on them. I agree with that. But they're
5 coming down hard on people for very simple
6 regulatory violations that, you know, maybe
7 require like a parking fine, not something in
8 six figures, or five figures. And that has to
9 be sorted out. I think they need to sit down
10 and figure out -- what is a criminal offense
11 and what is a regulatory offense, which is
12 what you were saying. So, I encourage that.

13 MR. RAUCH: That's exactly what the
14 IG -- and that perception that you've got a
15 criminal investigator knocking on your door
16 when it was a regulatory offense, that creates
17 a feeling that you're being treated like
18 criminals when you're not.

19 MR. CLAMPITT: Yes.

20 MR. RAUCH: That's in the IG
21 report. That's one of the reasons that the IG
22 has requested, and we've agreed, to do that

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1 workforce analysis as to whether or not that's
2 the right proportions.

3 MR. BILLY: You're preparing a
4 broader response to the IG report, with
5 identification of follow-up actions to be
6 taken?

7 MR. RAUCH: There will be, right,
8 as with any IG report. The normal process is
9 that we take the IG's recommendations. We
10 tell the IG what we agree with and what we
11 don't agree with. And the ones we agree with,
12 we outline what actions we're going to take to
13 correct that. That's the normal process.
14 It's got to go through a level of review. And
15 so that usually takes a while to do.

16 Dr. Lubchenco thought, given the
17 overall nature, it was important to outline
18 some actions ahead of time. So I don't think
19 that our formal response will say -- it might
20 add some things, but it won't contradict what
21 we've already said. But we will further
22 elaborate and put some time frames in, and

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1 other kinds of things like that.

2 MR. BILLY: Maybe a way to follow
3 up on this -- open to comment or other ideas --
4 -- is once that report is finished, to share
5 that with many, and we can take a look at that
6 and then decide if there is some role or
7 approach we want to take on this subject.

8 VICE CHAIR BALSIGER: A big part of
9 the response is that the summit is -- I
10 forget, it's before June 30th?

11 MR. RAUCH: Before June 30th.

12 VICE CHAIR BALSIGER: I don't know
13 if the Committee's interested enough, they
14 might be invited or attend the summit. But
15 that's a big part of our response.

16 MR. BILLY: Yes.

17 MR. RAUCH: I certainly think that
18 if we can develop those kinds of reports that
19 you talked about, the Committee's advice
20 periodically on whether or not we're doing the
21 right kinds of things, I think that's exactly
22 what kinds of things. Whether you want a more

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1 focused approach, I leave that up to the
2 Committee. But that's certainly in the long
3 run I think is something that the Committee
4 would have an ongoing kind of reaction.

5 MR. BILLY: We all set?

6 MR. CLAMPITT: Do we need to make a
7 motion on that -- okay.

8 MR. BILLY: Okay. All right.
9 Thanks. Thanks a lot.

10 Okay. We've completed the agenda.

11 I'd like to provide some time for Heather to
12 share with the Committee her plans for this
13 afternoon and the approach to be taken and any
14 other information she wants to provide. And
15 we need to identify --oh, yes. Sorry. I didn't
16 see it.

17 You want to --

18 MS. McCARTY: Sure.

19 MR. BILLY: Okay.

20 MS. McCARTY: Thank you, Mr.
21 Chairman.

22 I just was talking to Mark earlier

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1 about this afternoon. We're going to start
2 half an hour earlier than it says on the
3 agenda. Everybody got that, right? We're
4 going to talk about the budget. And I don't
5 know how far we will get with that, but I
6 think we can put out some maybe template
7 guidelines for another discussion at our next
8 meeting. I don't think we can hope to get
9 much more than that done.

10 I'd kind of like a show of hands as
11 to how many people are going to be coming to
12 this Subcommittee meeting. Maybe about ten or
13 12. Okay.

14 So I was also going to ask that the
15 folks who gave presentations on catch shares
16 might join us. I'd also like to have Earl if
17 he's still around. I don't know if he is.

18 MR. BILLY: He will be there.

19 MS. McCARTY: It will be really
20 good. And Dorothy, that would be really
21 helpful.

22 And I asked Mark to printout some

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1 copies of the actual policy in case people
2 prefer to have it on paper if you didn't print
3 it out yourself. So we'll have those there.

4 And I also thought it might be
5 useful to have to have someone on the computer
6 connected to a screen. I don't know whether
7 we're going to be in this room or not.

8 MR. BILLY: We will be in this
9 room.

10 MS. McCARTY: But that would be
11 good.

12 If any of you have any electronic
13 lists or outlines that you would like share
14 with the group -- you already have those notes
15 taken -- it would be good to maybe send it to
16 Mark, perhaps, or whoever is going to be
17 operating the computer, by email so that we
18 can put those on the screen for everyone to
19 see. If you have anything electronically
20 ready.

21 And I don't quite know how we're
22 going to approach this, whether we're going to

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1 divide up, too big a group to talk all at once
2 or not. I think we'll decide that once we see
3 the group. But if anybody has any ideas along
4 those lines, please let us know.

5 And if the Committee as a whole has
6 any guidance for this Subcommittee, I think
7 now would be a good time to talk about it.
8 Particularly if you're going to be in a
9 different subgroup. So if you have anything
10 that you would like to see come out of this
11 Subcommittee discussion in particular that you
12 might want to put on the table now if you're
13 not going to come to the Subcommittee meeting,
14 that would be useful as well.

15 We have a couple of hours.
16 Hopefully we can do at least an outline of
17 what we might want to say to bring back to the
18 full Committee.

19 MR. DEWEY: I'd had a thought, Mr.
20 Chairman. Yesterday we ran up against the
21 time at the end of the catch shares
22 presentations. They were out the door, we

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1 didn't have a chance for general questions.
2 And so we're a little early here on lunch, it
3 might be great if there was time. I don't
4 know if there were questions.

5 I sure appreciated the
6 presentation. Thought we might provide that
7 opportunity for the full group before we
8 break.

9 MR. BILLY: We'll tack that on the
10 end.

11 Any other? That's it? Good.

12 It's now my pleasure to introduce a
13 former member of MAFAC, Jim Cook, also a
14 Council member and currently associated with
15 Pacific Ocean Producers. I think I've got
16 that right. He'd like to say a few words to
17 us. Jim, welcome.

18 MR. COOK: I can only assume I'm
19 standing between you and your lunch. So, an
20 interesting position to be in, so I'll be
21 brief.

22 I wanted to take a moment to

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1 discuss with you sort of the major problem
2 faced by Hawaii's major fishery, which is the
3 long line fishery here. Bigeye are the
4 primary target species -- is experiencing
5 overfishing Pacific-wide. And in our fishery
6 is involved with two RMFOs, the Inter-American
7 Tropical Tuna Commission east of 150, which is
8 a little bit east of the state here, and then
9 to the west of that, the Western and Central
10 Pacific Commission.

11 And in both of these areas we have
12 quotas. And the quotas are interesting,
13 problematical, and I'd like to just describe
14 to you the problems that it brings to our
15 fishery.

16 In the east we have a quota of 500
17 metric tons of bigeye. And that quota applies
18 to vessels that are 24 meters in documented
19 length. Vessels smaller than that have no
20 quota.

21 And so it affects probably about 25
22 out of 130 vessels. And in an average year,

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1 the way we fish right now, it probably doesn't
2 affect the fishery.

3 Most of our fishing occurs in the
4 west, and in the west we have a quotas set by
5 the Western and Central Pacific Fisheries
6 Commission. And that quota, recent quota is
7 set at around 3600 or 3700 metric tons of
8 bigeye.

9 And a couple of years ago in the
10 Commission, I'd like to describe to you the
11 way bigeye -- long line bigeye -- quotas are
12 set. My numbers may be a little inexact, but
13 just roughly.

14 There are around 23 nations that
15 are affected here and are members of the
16 Commission. And of those 23, five of them
17 have assigned bigeye quotas. And they're
18 assigned on historical catch. And Hawaii has
19 the lowest one of those assigned quotas. Our
20 quota is around, as I said, around 3700 metric
21 tons. It then goes up, I think; Indonesia has
22 one at around 8,000. And then it goes up to

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1 Taiwan, Korea, Japan; they're in the 17,000 to
2 25,000 metric ton area.

3 The other island nations of the
4 Pacific have what we would call curious
5 quotas. They're assigned a quota of 2,000
6 metric tons, unless they are pursuing -- what
7 is it, reasonable? I don't have the right
8 word -- responsible fisheries development.
9 And then they have no quota.

10 So in addition to that they also
11 have the ability to enter into chartering
12 agreements.

13 So when you look at this,
14 effectively there really isn't a long line
15 bigeye quota in the western and central
16 Pacific, except if you live where I live in
17 Hawaii, part of the United States. We are
18 held to the quota that we have.

19 So the result of this is that in
20 recent years, our take of bigeye has been
21 around 4500 to 5,000 metric tons. We're now
22 on a quota of 3700 metric tons. In a normal

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1 year this fishery is going to close sometime
2 around October, something like that. Of
3 course, that doesn't mean that there won't be
4 any fish. There will still be lots of fish,
5 because all of these other countries that are
6 in chartering agreements will continue to fly
7 fish into Hawaii.

8 One major Chinese company, for
9 example, has three airplanes, has bases in
10 Palau, most of the Federated States of
11 Micronesia, also in the Marshall Islands, and
12 is a major importer of -- three times a week
13 with their aircraft -- of tuna into our
14 market.

15 So in effect what happens is, you
16 close a fishery that has had, oh, vessel
17 tracking for almost 20 years, been under
18 limited entry for, I don't know, 18 years,
19 that is responsible for around 22 percent of
20 the longline effort in the Pacific, and
21 provides 87 percent of the observer coverage
22 in the total Pacific, and you let people who

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1 are essentially unregulated, still building
2 line long boats in building their effort to
3 take over this market.

4 As you might imagine, we find this
5 position somewhat untenable. And while we
6 agree with the science that goes into managing
7 the fishery, and we agree that quotas are a
8 necessary thing, in fact there is no quota
9 except for us.

10 So as a result, we have sought
11 various forms of relief from this. We are
12 going through the Western Pacific Council,
13 some regulatory things that may at some point
14 -- if the National Marine Fishery Service
15 decides to sign off on this, if the State
16 Department agrees to this -- may give us some
17 relief from this problem.

18 It's a very difficult position for
19 us. I think it's outrageous, myself. There
20 are those that may have differing opinions,
21 but that's the condition that the state's
22 major fishery finds itself in at this point in

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1 time.

2 So I just wanted to advise you of
3 that.

4 Another curious thing is if you are
5 a foreign country and you desire to, say,
6 utilize -- and the American territories -- I
7 forgot to say this -- of Guam, Federated
8 States of Micronesia and American Samoa have
9 these 2,000 metric ton quotas. Of those 2,000
10 metric ton quotas, they use almost nothing --
11 from nothing to 200 tons. They also pursue a
12 responsible fisheries development under the
13 regulatory scheme of the Western Pacific
14 Fisheries Commission. We would like to engage
15 in chartering with them and using that quota.

16 So far the State Department and Fishery
17 Service have been somewhat adverse to this
18 position. And it's interesting that there are
19 methods by which a foreign country, like
20 China, can go in and access those quotas.

21 So, not wanting to keep you from
22 your lunch or get you more involved in my

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1 frustration than you may already be, thank
2 you.

3 Any questions that you have, I'd be
4 glad to answer. I see lunch -- yes.

5 MR. CHATWIN: So just out of
6 curiosity, if you did gain the access to the
7 quota that you're looking for, how much would
8 that increase your real quota that you could
9 access?

10 MR. COOK: Well, in an unlimited
11 fashion, as a matter of fact. But we don't
12 desire that. In other words, if we were able
13 to access, say, a quota that American Samoa
14 has, American Samoa because they have a
15 responsible fisheries development plan, they
16 don't have a quota. There's no limit to what
17 they can do.

18 There's 18 island nations out there
19 that have no limit to the amount of bigeye
20 that they can take.

21 You see this is curious, don't you
22 think?

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1 MR. ALEXANDER: What is the overall
2 health of the population in this area? And
3 that's highly migratory, so I mean how far do
4 those fish travel? Do they travel from one
5 side of the Pacific to the other?

6 MR. COOK: Stock is Pacific-wide.

7 Thank you.

8 MR. BILLY: Thank you.

9 MR. DEWEY: Tom?

10 MR. BILLY: Yes.

11 MR. CATES: Before we break for
12 lunch, we need to know a few things. One is,
13 how many people are going to go tomorrow
14 morning? And if anyone's interested in
15 visiting OI, they've extended an invite to
16 anybody who would want to go visit their
17 facility on Friday. Oceanic Institute.
18 They're the research center that does
19 aquaculture and fishery research. Where you
20 guys went around yesterday.

21 MR. BILLY: We drove by it. It's
22 right on the coast.

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1 MR. CATES: Just let me know.

2 MR. CONNELLY: If you've ever eaten
3 farmed shrimp, it started at that Institute.
4 It grew stock. But they are the originators
5 of all the shrimp around the world.

6 MR. CATES: And still are.

7 MR. BILLY: I think we have a count
8 for tomorrow morning.

9 MR. SIMPSON: Are you limited on
10 space? Because I have seen the auction, but
11 I'd like to go again.

12 MR. CATES: No, we just need to
13 know for the breakfast. And Jim's cooking
14 himself.

15 MR. BILLY: Yes, we did a count
16 yesterday and we had 22.

17 MR. CATES: We're going to make
18 sure we have Chinese fish available, so don't
19 worry.

20 MR. BILLY: All right.

21 MS. McCARTY: Mr. Chairman, could I
22 just ask, did you say when we might go to the

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1 Oceanic Institute?

2 MR. CATES: If you're either
3 available Thursday or Friday, even Saturday. I
4 just got an email from him. He was at the
5 reception last night.

6 MS. McCARTY: Okay. Thanks.

7 MR. SIMPSON: We will queue up in
8 the morning at 5:00?

9 DR. HOLLIDAY: Yes. Just a reminder
10 for tomorrow, 5:00. We'll meet at the same
11 place that we did last night to leave.

12 MR. SIMPSON: Is that Hawaii time?

13 MS. McCARTY: So where are the
14 subcommittees going to meet?

15 MR. BILLY: Yes.

16 DR. HOLLIDAY: So at 1:00 the
17 Recreational Fishery Subcommittee is going to
18 be meeting in the room right next to this one,
19 adjacent to us right here. Jim's asked Ken
20 Franke to chair that session for us. That'll
21 be from 1:00 to 3:00.

22 I just wanted to briefly read the

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1 report out from the last meeting as to what
2 the charge is -- as to why we're doing this,
3 just as a reminder. That the final
4 recommendations that MAFAC approved at the
5 last meeting, that MAFAC appoint a
6 recreational fishing working group of up to 25
7 people for up to one year to be extended at
8 the discretion of MAFAC, be charged with
9 assisting with the planning and organization
10 along with the Recreational Fishery
11 Subcommittee, a MAFAC member group, of a NOAA
12 2010 Recreational Fishing Summit.

13 Further, building upon the
14 recommendations and priorities articulated by
15 MAFAC, by MAFAC's Recreational Subcommittee,
16 the working group will advice MAFAC on any
17 number of issues of importance and policies to
18 the recreational fishing community including
19 but not limited to Ocean Policy Task Force,
20 review and possible revision of a NOAA
21 Recreational Fisheries Strategic Plan, Green
22 Spatial Plan and Catch Share policy, et

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1 cetera. The list will be modified over time.

2 So the process that we've
3 identified for creating this work group is, we
4 had a conference call one of the snow days
5 that we had off -- but several weeks ago -- to
6 try to begin the process of identifying from
7 the 58 nominees a recommended list to come
8 back to the full Committee, so that by the end
9 of this meeting the MAFAC would be
10 recommending to the NMFS Assistant
11 Administrator the recommended appointees to
12 the working group.

13 And so we have some materials that
14 have been posted on the members section of the
15 website, which are the nominations, the
16 spreadsheet listing of who those people are.
17 We updated on Monday. We continue to be
18 getting what is a recommendation, so we
19 updated that file on the website of letters of
20 support for those people.

21 And I have printed out copies of
22 the spreadsheet that I'll provide to the

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1 working group to use in their session at 1:00.

2 I'm going to have to train myself.

3 The MAFAC member group used to be called a
4 working group. But we elevated that to the
5 status of a Subcommittee at the November
6 meeting. And my brain is not synced up with
7 that title.

8 So now we're creating a working
9 group of non-MAFAC members to advise the
10 Subcommittee and the full Committee on issues
11 of recreational fisheries policy.

12 MR. BILLY: Any questions?

13 DR. HOLLIDAY: The Protected
14 Resources Subcommittee working group --
15 Subcommittee will be meeting in this room at
16 1:00. And hopefully we will push them out at
17 2:30 when the Strategic Planning-Budgeting-
18 Program Management Subcommittee will take over
19 in this room at 2:30.

20 Is that okay for what the game plan
21 is?

22 MR. BILLY: Yes. All set.

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1 MS. McCARTY: What is that
2 Subcommittee going to do? What are they
3 going to be talking about?

4 DR. HOLLIDAY: At the November
5 meeting they submitted some ideas for
6 activities that the Committee would be
7 interested in pursuing. We met with the head
8 of the Office of Protected Resources and got
9 information from him and his staff about
10 upcoming issues. And so it's basically a
11 planning meeting for the summer meeting of
12 MAFAC, where the office director, Jim Lecky
13 from Protected Resources, would come and
14 participate in the MAFAC meeting to talk about
15 some of these substantive issues on the
16 Protected Resources side.

17 So it's a general planning meeting
18 to get some feedback and do some planning for
19 the next meeting.

20 MS. FOY: Did you think that I had
21 a comment?

22 DR. HOLLIDAY: No. Jim asked the

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1 question, who chairs the Subcommittee.

2 MS. FOY: I thought you were asking
3 me to make a statement on something.

4 MR. BILLY: You were being
5 identified.

6 All right. Let's break now for
7 lunch, and you have the information on the
8 Subcommittees this afternoon.

9 Thank you all for your
10 participation.

11 (Whereupon, the morning session was
12 concluded at 12:03 p.m.)

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