

UNITED STATES OF AMERICA  
DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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MARINE PROTECTED AREAS  
FEDERAL ADVISORY COMMITTEE

+ + + + +

TUESDAY  
OCTOBER 10, 2006

+ + + + +

NEWPORT, OREGON

+ + + + +

The Committee met at Oregon Coast Aquarium, located at 2820 S.E. Ferry Slip Road, at 8:30 a.m., Dr. Daniel Bromley, Chair, presiding.

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APPEARANCES:

LAUREN WENZEL, Designated Federal Official

MARINE PROTECTED AREAS FEDERAL ADVISORY  
COMMITTEE:

Dr. Daniel Bromley, Chair - University of  
Wisconsin

Dr. Tundi Agardy - Sound Seas

Mr. Charles D. Beeker - Indiana University

Mr. Robert Bendick, Jr. - The Nature  
Conservancy

Dr. Anthony Chatwin - The Nature Conservancy

Dr. Michael Cruickshank - Marine Minerals  
Technology Center Associates

Ms. Ellen Goethel - Fishing and ocean  
education

Dr. John Halsey - Michigan Department of State

Dr. Dennis Heinemann - The Ocean Conservancy

Dr. Mark Hixon - Oregon State University

Mr. George Lapointe - Maine Department of  
Marine Resources

Dr. Steven Murray - California State  
University

Dr. John Ogden - Florida Institute of  
Oceanography, University of South  
Florida

Mr. R. Max Peterson - International  
Association of Fish and Wildlife  
Agencies (Retired)

Mr. Gilbert Radonskli - Sport Fish Institute  
(Retired)

Dr. James P. Ray - Oceanic Environmental  
Solutions, LLC

Mr. Lelei Peau - American Samoa Department of  
Commerce

Dr. Daniel Suman - University of Miami

Mr. Robert Zales, II - Recreational Fishing

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NATIONAL MARINE PROTECTED AREAS CENTER:

Mr. Joseph A. Uravitch  
Mr. Jonathan Kelsey  
Mr. Charlie Wahle

EX-OFFICIO FEDERAL REPRESENTATIVES:

Ms. Mary M. Glackin - Department of Commerce  
Mr. Randal Bowman - Department of the Interior  
Designee  
Dr. Brian Melzian - Environmental Protection  
Agency

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

2 8:35 a.m.

3 DR. BROMLEY: The court reporter  
4 has asked that we turn our names toward her and  
5 remember that when you speak if you can identify  
6 yourself that will help, at least for the first  
7 few times.

8 So welcome to this rustic wonderful  
9 setting. We've had some good settings before  
10 but this may be one of the better ones. Thanks  
11 Mark for helping us get here and anybody who's  
12 responsible for this arrangement.

13 I'm going to go through the agenda  
14 very quickly before we get down to business so  
15 that everyone's clear. Sorry that we will be  
16 missing Eric Gilman, Terry O'Halloran, Walter  
17 Pereyra, Kay Williams and Dave Benton, at least  
18 for today, he may show up tomorrow.

19 Let me just run through the agenda.

20 And the first item we have to do is approve  
21 the Minutes from the April meeting, so I would

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1 entertain a motion.

2 So moved. Is there a second to  
3 approve the Minutes of the April meeting? Mark  
4 Hixon has seconded. Any discussion? If not,  
5 those in favor of the approval of the Minutes  
6 of the April `06 meeting say Aye.

7 (Ayes.)

8 DR. BROMLEY: Opposed? Okay. Let's  
9 go through the agenda. I have sent an e-mail  
10 around indicating that I'd like this to be my  
11 last meeting as Chair and so we'll have an  
12 election for Chair on Thursday.

13 Bonnie McCay has also indicated that  
14 she would like to step down as vice-chair, so  
15 this is perhaps new news to some of you so in  
16 a sense both Bonnie and I are relinquishing our  
17 roles and would hope that discussions have  
18 started about who ought to replace me, and now  
19 you can also add to that who you'd like to have  
20 replace Bonnie. So we will talk about that in  
21 just a second.

22 So at 8:45 each of the subcommittees

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1 will have 15 minutes to update us on their work.

2 At 9:30 we will discuss the draft National  
3 System Framework, copies of which are on the  
4 table and I don't know, are they also in our  
5 packets?

6 MS. WENZEL: No, they're not.

7 DR. BROMLEY: Okay. So if you  
8 haven't picked up the draft framework out on  
9 the table out front it's there, please do so,  
10 as well as the meeting packet. Both of those  
11 are out there for you.

12 At 9:30 we will have a discussion  
13 that will run to our coffee break about the  
14 National System Framework. We leave it up to  
15 you how detailed you want to get in your  
16 reactions to that. And I guess also Lauren  
17 whether we as body want to --

18 At 11:15 John Ogden will introduce  
19 Gail Osherenko, UC Santa Barbara, who will talk  
20 to us about Ecosystem Approaches to Management.

21

22 After lunch the subcommittees again

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1 will meet. We have breakout rooms, not in  
2 abundance here, I think two subcommittees will  
3 meet in this room and then the third in the café,  
4 is that right? And the café is out the door  
5 some place. So when we split out to subcommittees  
6 two of you will be here. I understand Bob Bendick  
7 has said his group can meet outside on the  
8 landing. So if that's a prime spot we need to  
9 rotate and we can take care of that.

10 At 3 o'clock subcommittee 3 is going  
11 to report on Ecosystem Approaches to Management.

12 They have been doing some work on that. And  
13 there's a document that was sent out to you and  
14 it may be in the packet, let me check. It's  
15 in the packet as well. Okay.

16 We'll have a public comment at four  
17 today. We will adjourn at five. We cannot tour  
18 the museum because they need to get it ready  
19 for the reception so we'll have to come back  
20 here at six. There'll be a reception here and  
21 then there'll be a film this evening and we have  
22 invited several members of the Oregon Ocean

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1 Policy Advisory Committee this evening. So  
2 please welcome them and go around and make  
3 yourself known to them.

4 Tomorrow, Wednesday, the agenda's  
5 rather straightforward. At 10:45 the  
6 subcommittees will have 30 minutes each to  
7 report back to us. So tomorrow is the day of  
8 panel discussions and subcommittee meetings.

9 Our dinner, our committee dinner is  
10 tomorrow evening rather than tonight. It's at  
11 7 o'clock at Quimby's, which is in downtown  
12 Newport. We will meet in the lobby of the hotel  
13 at 6:45 and we will arrange for the  
14 transportation to Quimby's. So that's tomorrow  
15 evening. It's about 2 miles from the hotel.  
16 George will lead the run over there, they will  
17 leave the hotel at 6:30 and beat us in their  
18 cars.

19 Thursday morning at 8'clock we'll  
20 announce the names of those who have indicated  
21 they're interested in running for Chair and  
22 Vice-Chair so that you have that information

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1 available to you. We'll have a public comment  
2 period on Thursday and if that is shortened by  
3 virtue of no one showing up or just a few people  
4 that will give us a bit more time on the program.

5  
6 The way the agenda is set up is that  
7 the election chair and vice chair is set for  
8 3:45 on Thursday. Some people may leave and  
9 so we've made a decision to move that election  
10 up to the 11 o'clock spot on Thursday. So we'll  
11 have a break, it will be your last chance to  
12 lobby for or against the job and convince people  
13 you wouldn't be a good candidate or you would,  
14 it's up to you, and then the election will take  
15 place at 11 and then after that's over the  
16 subcommittees will meet again.

17 The only other thing is arrangements  
18 for our spring meeting. We will either meet  
19 in Washington, D.C. or somewhere in the Great  
20 Lakes region I think is the sentiment.

21 On Friday there's a field visit.  
22 For those of you who have signed up there will

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1 be more detail on that but that's set for Friday  
2 morning. And then in the afternoon there's  
3 a visit to the Oregon Coastal Refuges if you  
4 wish to do that.

5 So anything else Lauren that we can  
6 talk about?

7 MS. WENZEL: Nope. That sounds  
8 good.

9 DR. BROMLEY: Okay. Good. So that's  
10 the agenda so 8:45 and I think we're right on  
11 schedule. The plan calls for each of the three  
12 subcommittees to have 15 minutes to update the  
13 things that they have done since our last meeting.

14 And so why don't we just walk through the  
15 subcommittee room, Max Peterson and Bob Zales.

16 Would you gather go third? Okay. Subcommittee  
17 2, Tony Chatwin and George Lapointe, are you  
18 ready?

19 DR. CHATWIN: Yes.

20 DR. BROMLEY: Okay. Subcommittee  
21 2, that's the Incentives and Implementation for  
22 an Effective National System.

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1 DR. CHATWIN: Thank you Mr. Chairman.

2 Since the last meeting we've had a series of  
3 conference calls on a monthly basis really, and  
4 the majority of them have been focused on the  
5 issue of whether the national system should be  
6 a tiered system or not and how many tiers and  
7 what that would mean in terms of inclusion to  
8 the system.

9 I think we've suffered a little bit  
10 from not having had the benefit of the framework  
11 for our early discussions and I think that's  
12 going to influence the discussions that we have  
13 here.

14 We also have plans to advance more  
15 on the topic of incentives for implementation  
16 and that's on the agenda for our meetings here,  
17 looking at existing models in the existing  
18 legislation that we could make a case for  
19 furthering the objectives of the national  
20 system.

21 And so we haven't really reached  
22 conclusions or consensus on any position yet

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1 and we're hoping to get to the point where we  
2 could report back on Thursday on those issues.

3 So that's a very brief update and  
4 I don't know if Lauren wants to add to that?  
5 Okay. I think that covers it.

6 And we have a proposal on the table  
7 as far as a tiered system but I think we need  
8 to look at that in the light of the framework  
9 and discuss the same thing with the incentives.

10 DR. BROMLEY: Okay. Could I ask  
11 a question and then others as well? You say  
12 tiers, do you mean a hierarchy, a qualitative  
13 hierarchy, these are better than those, or do  
14 you mean tiers in terms of use and so on? Degrees  
15 of protection.

16 DR. CHATWIN: I think there's been  
17 a discussion from all angles and I would invite  
18 my fellow committee members to join me here and  
19 add or correct. But there's been a desire  
20 expressed to recognize that not all of the MPAs  
21 within the system are at the same stage of  
22 efficiency, development capacity.

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1           A number of different considerations  
2           that would make them stand out to determine crown  
3           jewels has been referred to, you know, some of  
4           them could be good models for others within the  
5           system.

6           DR. BROMLEY:        Are you talking  
7           managerial competence and effectiveness?

8           DR. CHATWIN:        I think it's  
9           effectiveness -- what we've talked about is  
10          effectiveness towards meeting the goals we've  
11          been given.

12          DR. BROMLEY: All right. So it would  
13          be almost a grading system, and I don't want  
14          to put words into your mouth, but these are ready  
15          to graduate and these are not and these are  
16          seriously deficient. Is that what you mean by  
17          tiers perhaps?

18          DR. CHATWIN:        I don't think  
19          seriously deficient came into it. Right at  
20          the beginning we talked about whether or not  
21          there should be criteria for inclusion in the  
22          national system but I think that's pretty clear

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1 in the framework and we then evolved to the  
2 discussion of within the system. Within all  
3 the sites that need a criteria to be part of  
4 the system. Should there be a recognition that  
5 some sites can be role models for others.

6 There was a concern expressed what  
7 about the small sites that come in that don't  
8 have the same capacity in terms of, you know,  
9 funding streams and personnel to be at the status  
10 of these more developed sites, they would be  
11 hindered by not having the same.

12 So there's recognition that I think  
13 there's a diverse composition of sites within  
14 the national system and what do we do with that?

15 Do you try to organize it into a tiered system?

16 What does a tier system mean? And I think the  
17 discussion about incentives has to come in and  
18 what are we trying to achieve with the national  
19 system and how are the sites contributing toward  
20 that and how can we create incentives to help  
21 the sites achieve or even help them be interested  
22 in being part of the system.

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1           So that's the discussions. We've  
2 covered a lot of ground and been we've been  
3 focusing.

4           DR. BROMLEY: Thank you. Other  
5 questions for subcommittee 2 on Incentives and  
6 Implementation?

7           DR. CHATWIN: And if I may, Mr.  
8 Chairman, I'd invite my fellow subcommittee  
9 members if I've missed something or  
10 misrepresented something please --

11           DR. BROMLEY: George?

12           MR. LAPOINTE: This is George  
13 Lapointe speaking. And just in regard to your  
14 question we're glass half full kind of people  
15 rather than glass half empty so rather than  
16 calling something seriously deficient the idea  
17 appears that some are more advanced than others  
18 I think. Just in terms of finding new  
19 capabilities.

20           DR. BROMLEY: Yes, I apologize for  
21 the use of the word deficient. Other questions  
22 for Subcommittee 2? If not, Subcommittee 3 are

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1 you ready to talk? Steve Murray and Ellen  
2 Goethel?

3 DR. MURRAY: I think we can do that.

4 I'll go ahead and tell them where we've gotten  
5 to and then turn it over to you.

6 So at the Corpus Christi meeting our  
7 subcommittee identified a work product and we  
8 have spent most of the time up until this meeting  
9 working on that work product.

10 DR. BROMLEY: You're sort of the  
11 science group so could you identify your, what  
12 do you call? Natural Social Science.

13 DR. MURRAY: Natural Social Science.

14 So our first work product which you have in  
15 your packet is an effort to establish a  
16 relationship between marine protected areas and  
17 ecosystem management and at the Corpus Christi  
18 meeting we had set a timetable whereby we had  
19 hoped to be able to bring to you at this meeting  
20 a product for approval and we have been  
21 successful in doing that.

22 We've had two conference calls to

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1 work over drafts of this document, which Mark  
2 Hixon took the elegant lead in producing, so  
3 we'll have that for you a little later on.

4 We also during our discussions  
5 worked to identify what our second work product  
6 would be and we'll be deciding that I think  
7 either at this meeting, on the table we have  
8 an effort that Charlie is going to lay out for  
9 us or summarize for us, which has to do with  
10 the focus on monitoring the evaluation needs.

11  
12 And the second product or second  
13 item up for discussion, which John Ogden will  
14 be presenting to our subcommittee later on this  
15 week, which will deal with spacial planning.

16 So the objective will be to identify what we  
17 think would be our next work product and a work  
18 product that will result in some kind of a  
19 written document and then we'll go to work on  
20 that.

21 And the timetable that we laid out  
22 for ourselves at Corpus Christi, which so far

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1 we've been able to adhere to, is to produce one  
2 of these documents for this meeting and the hope  
3 is that our second work product we would be able  
4 to bring forward at our spring meeting.

5 One other area that I think we need  
6 to discuss today in terms of Subcommittee 3  
7 members are the issue that we did talk a little  
8 bit about in Corpus Christi but haven't talked  
9 about much since, largely due to our efforts  
10 on the ecosystem based management effort, and  
11 that is the historical and cultural issues that  
12 we probably ought to have some discussions about  
13 that during our time here.

14 And I think that's really what we've  
15 been able to accomplish so, Ellen, do you have  
16 anything, or any other subcommittee members  
17 would like to chip in?

18 DR. BROMLEY: Are there questions  
19 or elaborations for the Natural and Social  
20 Science group? Yes, Tony?

21 DR. CHATWIN: Thank you Mr. Chairman.  
22 I am curious and maybe the presentation on the

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1 framework will help clarify that, but in your  
2 subcommittee have you discussed setting more  
3 specific goals based on the Natural and Social  
4 Science for the goals of a system, over-arching  
5 goals but if we are to measure effectiveness  
6 it needs to be in relation to something more  
7 concrete and I just wondered if your  
8 subcommittee had discussed that at all?

9 DR. MURRAY: I think that discussion  
10 is going to take place and pretty intensive when  
11 you talk about the design and evaluation  
12 monitoring components because those are not done  
13 without having clear goals established. So I  
14 think that's where we're headed.

15 DR. CHATWIN: Thank you.

16 DR. BROMLEY: Other questions for  
17 Subcommittee 3? Okay. Subcommittee 1. Max,  
18 you have your feet under you now?

19 MR. PETERSON: Yes sir.  
20 Subcommittee 1 took on the question of what are  
21 some regional approaches to planning and  
22 coordination, and we elected to use a case study

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1 approach to look at what's been done in other  
2 kinds of cooperative undertaking. And so the  
3 first question we were trying to address was  
4 how should planning for the management system  
5 can be to be done in a way that encourages  
6 cooperation and coordination among the  
7 different folks in marine management and  
8 international management.

9 We selected seven existing ongoing  
10 historical efforts ranging everywhere from the  
11 Great Barrier Reefs to the South Florida  
12 ecosystem, and we're much indebted to Jonathan  
13 Kelsey first for getting all this material and  
14 trying to get it pulled together so we could  
15 work with it. So Jonathan took on that role  
16 and did a real good job for us and I'm going  
17 to ask Jonathan if he wants to say anything more.

18  
19 But today we are going to look at  
20 these case studies and try to answer those  
21 questions of how can regional approach to  
22 planning and encourage cooperation and

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1 coordination. Jonathan?

2 MR. KELSEY: I think you summarized  
3 it well.

4 DR. BROMLEY: Okay. But we really  
5 do appreciate, and members of the committee  
6 incidentally are Jim Woods, Jim Ray Charles,  
7 Dave Benton, Michael Cruickshank and Bob Bendick.

8 So thank you. And we'll be having a spirited  
9 discussion of these and what can we learn from  
10 these 11 historic -- thank you. Eleven, yes.

11 DR. BROMLEY: Other questions or  
12 elaborations from the subcommittee or from  
13 others for this group? No? Okay. Thank you.

14

15 Before we move on to the framework  
16 are there any other things that people would  
17 like to discuss in connection with the three  
18 subcommittee reports? Maybe we need a bit more  
19 coffee in us perhaps.

20 Well, I think Jonathan and Joe are  
21 you ready to do your National Framework thing?

22 MR. URAVITCH: I think we are.

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1 DR. BROMLEY: Jonathan, are you  
2 ready?

3 MR. KELSEY: Yes.

4 DR. BROMLEY: Okay. So this is nice  
5 we're moving right along here. Okay. So  
6 Jonathan Kelsey and Joe are going to visit with  
7 us about the development of and the status of  
8 a National Framework.

9 MR. URAVITCH: I'll start off. Well  
10 thanks everybody for being here. We've come  
11 a long way since our last meeting. I guess I'd  
12 like to start by thanking the Committee for the  
13 recommendations they made and I'm hoping you  
14 saw a lot of what you recommended to the  
15 Departments of Commerce and the Interior in the  
16 framework document that's out.

17 We're extremely pleased that the  
18 Secretaries of Commerce and Interior decided  
19 this was important enough that they sent this  
20 out directly to the 35 coastal and territorial  
21 governors around the United States, as well as  
22 to the leaders of the coastal tribes on a

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1 government to government basis. And then we  
2 ourselves sent it out to several thousand other  
3 people after that.

4 We have 145 day comment period on  
5 this framework. We've caught a little bit of  
6 grief for that saying you're just trying to  
7 extend this out. Our view is just the opposite.

8 We're trying to give it as much comment as we  
9 can.

10 We know there are some agencies and  
11 institutions that only meet on a quarterly basis  
12 and so as a result we've decided to give them  
13 the opportunity to meet once during this 145  
14 day period and then have a second meeting in  
15 which they can formally prepare comments if  
16 that's the way the organization chooses to  
17 proceed. Hence the reason for the 145 day  
18 comment period.

19 We do not intend to extend beyond  
20 that 145 days and the normal federal comment  
21 periods are 45 to 60 to 90 days, but we will  
22 inform people as we move along through this

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1 process so that people know the deadline's out  
2 there. I know 145 days can get lost so we will  
3 remind people that there is a closure coming  
4 down the road.

5 We also received recommendations  
6 from the coastal states as well and those were  
7 also a good part of our deliberations for the  
8 framework. We briefed the coastal states  
9 organization at their annual meeting in  
10 Washington two weeks ago and things were well  
11 received there so we're definitely launched at  
12 this point.

13 And I guess now I'd really like to  
14 turn this over to Jonathan Kelsey who's done  
15 the heavy lifting in putting the Framework  
16 document together and we owe him a lot.

17 DR. BROMLEY: Joe, when's the end  
18 of the comment period?

19 MR. URAVITCH: Valentine's Day,  
20 February 14, 2007.

21 MR. KELSEY: Okay. Thanks Joe. I'm  
22 very excited to be up here in the public comment

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1 period with a draft framework out and in the  
2 public domain for comment as opposed to  
3 anticipating being in the public comment where  
4 we were when we last met with you all in Corpus  
5 Christi.

6 I have a few slides to prepare some  
7 refreshers on where we've come from in this  
8 process, why we've gone in the direction that  
9 we've gone and then a little bit more detail  
10 about some of the specifics of what's actually  
11 in the document.

12 And I think the most important thing  
13 to happen over the course of however long we  
14 have here, over the next hour or so, is for you  
15 all to be able to engage in discussion among  
16 yourselves and with us about any questions or  
17 interest that you have in the document. So  
18 feel free to interrupt us as we're moving along  
19 and if you have questions on these specific  
20 issues.

21 DR. AGARDY: Jonathan, can you just  
22 raise the projector so that we can see? Just

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1 a little bit? Okay, that's fine, much better.

2 Thank you.

3 MR. KELSEY: So since we last met  
4 the ORDI have approved the draft framework  
5 document and in that approval process we had  
6 some interest from the Secretary of Commerce  
7 and Interior and Nicky sent that work out to  
8 all of the government partners around the  
9 country that are really sort of the meat and  
10 the substance of what this national system will  
11 become.

12 So a letter was sent and transmitted  
13 with a copy of the framework to roughly 275  
14 individuals, governors and tribal leaders; one,  
15 recognizing and acknowledging the importance  
16 of their role as government partners in its  
17 effort as it moves forward encouraging their  
18 review of the document and asking for their  
19 participation in this effort as it moves  
20 forward.

21 So that's gone out. We've done a  
22 wide distribution of this document through this

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1 mailing, through direct e-mails, I think we've  
2 reached somewhere in the order of five or six  
3 thousand people directly and I'm sure through  
4 the efforts of folks like you and others it's  
5 gone out to many more.

6 All the documents are available on  
7 mpa.gov web sites. So it's readily accessible.

8  
9 The framework is really a proposed  
10 road map for the development of a national system.

11 It lays out a commonsense approach for MPA  
12 programs, partners and stakeholders to work  
13 together to better us MPA. This isn't a federal  
14 document, it's not an MPA Center's document  
15 although it's an MPA Center product from ORDI  
16 that's really based on a balanced approach of  
17 all the input that we've gotten over the past  
18 several years from folks like you and other  
19 government agencies and stakeholders.

20 As a result of all this input, the  
21 document is adapted and flexible because there's  
22 a variety of interests in the types of MPAs that

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1 are used and how they're used around the country.

2 So the document is really partnership-driven  
3 in that those agencies and programs that  
4 participate in the national system and the  
5 stakeholders that provide advice will really  
6 be the ones to determine what the national system  
7 does, where it goes, how it operates, etc.

8 And this framework process is one  
9 of the first steps in that, or not the first  
10 step, one of the steps along the way, getting  
11 some more input on how we can develop a final  
12 document that lays all of this out.

13 As a result of our consultation with  
14 all the states and the recommendations that Joe  
15 mentioned coming from states in consultation  
16 with tribes, states, territories, tribes and  
17 federal agencies are all full partners in this.

18 They all have a say in where the national system  
19 goes, what it does and how it does it.

20 Based on the differences around the  
21 country that we saw and how MPAs are used and  
22 an interest in using them, we saw that there's

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1 a lot of variability at the regional level, even  
2 at the state level.

3 And so the framework of the national  
4 system really takes a regional approach, looks  
5 at findings scales that are appropriate and  
6 effective for coordinating and collaborating  
7 on these efforts under the national system.  
8 But also recognizes that a number of national  
9 interests in having a national system and there  
10 are a number of cross-cutting priorities that  
11 MPA programs around the country might have, and  
12 so there's an important national outlook that's  
13 a component of the framework as well.

14 Finally, given all of the variety  
15 of interest in MPAs around the country and the  
16 variety of purposes for which they're put in  
17 place and what they're working to accomplish,  
18 the framework recognizes that all of these  
19 different MPAs and MPA programs offer valuable  
20 contributions to this national system.

21 So while some sites that may protect  
22 -- may have a high level of protection, there

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1 are other sites that may not have an extremely  
2 high level of protection but have a very valuable  
3 education and a research component.

4 So the framework really recognizes  
5 that there's value to bringing all these  
6 different interests together to work on  
7 improving the effectiveness of existing areas  
8 and looking at how we can better use them in  
9 the future.

10 So I want to just spend a few minutes  
11 going over some of the more prominent components,  
12 major components of the actual document itself.

13 This slide today we went over it in  
14 Corpus Christi and also these are very similar  
15 to your recommendations. So the framework lays  
16 out the comprehensive tools for all of the  
17 efforts that was poured on the natural heritage,  
18 cooperative heritage and sustainable  
19 production.

20 And this looks at how we can be  
21 inclusive in bringing all these purposes for  
22 which MPAs are put in place together, but also

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1 how we can integrate it. And so these are some  
2 over-arching, underlying themes that apply to  
3 all of the activities and that seem to be  
4 concrete and look at integrating across these  
5 various purposes.

6 The framework also lays out three  
7 major goals. Each of these goals has a number  
8 of specific objectives and, Tony, your question  
9 before are there specific priorities for  
10 science? Some of the objectives in the framework  
11 actually get down to some of those more specific  
12 aims of what the national system should  
13 accomplish.

14 But again, because the variety of  
15 MPA programs around the country and all these  
16 efforts are so variable, these are still some  
17 broader high levels goals and objectives that  
18 are meant to help catalyze some more focused  
19 regional discussions on what you folks want to  
20 work on together at regional ecosystem level.

21 So they're meant to be inclusive and  
22 facilitate a discussion at the next level down,

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1 which is where folks are operating on the ground  
2 and working on their issues.

3           So the three goals range from really  
4 one focused on conserving and sustaining the  
5 use of marine resources and promoting sound  
6 stewardship effectiveness and then down into  
7 enhancing effective coordination and  
8 integration, not only within the national system  
9 but also externally within the broader ecosystem  
10 management context internationally also.

11           So there's been a fair amount of  
12 interest in this national system MPA criteria  
13 so I'll just briefly go over them and then  
14 provide a little bit of information on why they  
15 are as they are and what the implications of  
16 criteria at this level mean for the size of the  
17 national system and whatnot.

18           So at the most fundamental level the  
19 MPA criteria start from or stem from the MPA  
20 definitions that's in the Executive Order, which  
21 is any area of the marine environment reserved  
22 by federal, state, tribal, local governments

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1 for the lasting protection of any or all of the  
2 marine resources, more or less, that's not  
3 verbatim.

4 As we move from that level of  
5 definition to the next level, we also provided  
6 five definitions of key terms out of that  
7 definition that then set up some criteria for  
8 looking at various attributes or  
9 characteristics of MPAs that would be helpful  
10 to a national system.

11 So we define area, marine  
12 environment, these are lasting and protection.

13 And these look familiar obviously because they  
14 were also defined at another level, a broader  
15 level, for the marine managed area.

16 So as we went from marine managed  
17 area to marine protected area, where we ended  
18 up was similar with the exception of the  
19 definition of lasting, which is now established  
20 with the intent at the time of designation to  
21 provide permanent protection, meaning that  
22 there has to be legal or other kinds of

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1 administrative action to turn off the  
2 protections on the sites.

3 Now marine managed area was a much  
4 shorter time frame for the lasting provision.

5 It just needed to be some protection in the  
6 same place for the same time for two years.  
7 So this is less longer into perpetuity with the  
8 exception of some action --

9 There's also a set of additional  
10 criteria in that this side of the program has  
11 to identify how it contributes to at least one  
12 of the objectives that the framework outlines,  
13 so some sense of how the site fits in and  
14 contributes to the over-arching goals and  
15 objectives.

16 Managing agencies must give approval  
17 to participators, this is another criteria.  
18 This is especially important. It's a state,  
19 tribal, local government, territorial sites  
20 whose participation in a national system is  
21 voluntary.

22 But it's also important I think for

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1 federal users as well because what this really  
2 sets up is a consultation process which I think  
3 is at the most fundamental level important for  
4 fulfilling this coordination, consultation,  
5 cooperation theme across the national system.

6 So it sets out this consultation  
7 process where agencies have to give approval  
8 for their site or for them to participate. And  
9 I'll go through in a bit the process by which  
10 that consultation happens.

11 Also given the widespread acceptance  
12 of cultural resource criteria established by  
13 the National Historic Register we adopted a  
14 number of those criteria as well, and I have  
15 a slide at the end of this that I can go over  
16 if folks are interested. So if you have that  
17 question we can get to it at the end. There's  
18 some about age and integrity and some other  
19 pretty widely accepted criteria that we adopted  
20 here relative to the cultural resource.

21 So I do want to talk a little bit  
22 about why these criteria are as important as

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1 they are and what the implications of them are.

2 If you think back to the Corpus  
3 Christi meeting, Charlie gave a really good  
4 presentation about sort of the national patterns  
5 and marine managed area protection for this  
6 broader set of area that also includes MPAs.  
7 We went over some of these characteristics on  
8 these patterns.

9 And when you look at marine managed  
10 areas most year round protection have a National  
11 Heritage Conservation focus although when you  
12 look at the geographic extent of areas as opposed  
13 to the number of areas, the sustainable use focus  
14 rises in prominence, uses including fishing.

15 When we looked at the lasting  
16 provision of all marine managed areas, most  
17 provide permanent protection but not all.

18 Now as we looked through these sites  
19 the only clear area where we saw a distinction  
20 between what people think of as MPAs versus  
21 what's in the wider set of marine managed areas,  
22 so this is where we opted to take the advice,

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1 take the analysis from these marine managed  
2 areas and set the lasting criteria at  
3 establishing the intention to provide permanent  
4 protection.

5 And, interestingly, there was no  
6 sort of in-between. If you recall your  
7 recommendations there was some year internals,  
8 10 years or 15 years, and I think it was either  
9 a very short period of time to establish to be  
10 permanent. So that didn't line up well and so  
11 we took the longer term protection as the route  
12 for the lasting definition.

13 So what are the implications? Well  
14 the national system is inclusive. We've  
15 identified over 1,500 marine managed areas, we  
16 know that there's probably 2,000 or more out  
17 there. When we look at marine protected areas  
18 we think that probably as many as 1,500  
19 potentially eligible and the reason why I say  
20 potentially eligible is because they meet most  
21 of the criteria but until we get that agency  
22 approval they are only potentially eligible.

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1           Most of these areas that will be  
2 potentially eligible in a national system  
3 established after 1970 by state agencies, many  
4 of the largest sites are federal sites, many  
5 provide overlapping protections which is  
6 interesting in that, for example Florida, there  
7 are some areas that are designated by the state  
8 that may have as many as three state areas  
9 overlapping, an area that relates to sustainable  
10 production overlapping with an area that gives  
11 us additional water quality protection  
12 overlapping with some kind of a park of more  
13 natural heritage conservation focus.

14           And so what this may offer is an  
15 opportunity to bundle some of these areas  
16 together as we move into the consultation  
17 process to have more of an operating unit, an  
18 MPA unit that is part of the national system  
19 as opposed to really this overlapping.

20           So there's some opportunities there  
21 and the 1,500 may be an over-estimate but we'll  
22 have to see how that goes and the kinds of advice

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1 we get back from MPA programs and the framework.

2 And I think the final implication  
3 here is that we have a lot of partners by being  
4 inclusive like that. But that also brings with  
5 it a lot of opportunities for folks to be working  
6 together to really improve how MPAs are working  
7 on the ground.

8 Any questions up until this point.

9 Steve?

10 DR. MURRAY: Just one. How many  
11 total MMAs are there and how many potential?

12 MR. KELSEY: I think it's fairly safe to  
13 say we've identified over 1,500, or we've  
14 inventoried over 1,500 MMAs. We know that there  
15 are probably 2,000 or more out there that would  
16 be the total. And then for MPAs we think that  
17 there may be as many as 1,500 that would meet  
18 the criteria.

19 DR. MURRAY: All those inventoried?

20 MR. KELSEY: Yes, 95 percent  
21 something like that that meeting that criteria.

22 But again there's the other criteria in there

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1 which is there has to be some interest from the  
2 agents that are participating. So we imagine  
3 that there's going to be interest in both  
4 consolidating involvement by MPA programs by  
5 states, etc. and that there may be some ways  
6 to bundle some of these areas together.

7 But also there may be some areas or  
8 some sites that just may not be interested so  
9 it may be evolutionary.

10 MR. LAPOINTE: The 1,500 number  
11 certainly is a big tent number and I'm going  
12 to ask you to read the framework again. I'm  
13 a little bit concerned that it would allow us  
14 to declare victory and go home. You know, we've  
15 got 1,500 sites, they're all across the country,  
16 90 percent of them are in states and aren't we  
17 doing a good job and we don't need to do more.

18 And so I think that it's important  
19 that the framework reflect the need for the  
20 ecosystem based management angle that  
21 Subcommittee 3 is working and the conductivity  
22 angle that continues to baffle this committee

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1 member. But the framework recognize the need  
2 to do more ecologically, to connect the  
3 framework in a logical way.

4 MR. PETERSON: What's the area  
5 involved? Square miles or acres or whatever  
6 involved?

7 MR. KELSEY: I don't have it up  
8 here. I know that we've just gotten to that  
9 point in our analysis and I don't know Charlie  
10 if you have.

11 MR. WAHLE: It will be ballpark.  
12 The figures are surprising when you look around  
13 the regions, somewhere, and Rick you can talk  
14 about this more later, but somewhere between  
15 25 and 35, 40 percent of the water is in some  
16 kind of MMA.

17 MR. PETERSON: Okay.

18 MR. WAHLE: Yes and a percentage  
19 of real protection is very good.

20 DR. BROMLEY: John?

21 DR. OGDEN: I was going to comment  
22 sort of along that line because I remember it

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1 goes way back to some of our earlier meetings,  
2 I recall half of the Gulf of Mexico was really  
3 shaded in the entire EEZ of the Gulf of Mexico  
4 because essentially under the broadest  
5 definition of what an MMA is this was an MMA  
6 because of regulations etc. etc.

7 And I find that an intriguing idea.

8  
9 MR. KELSEY: And if I can answer  
10 the question or the point that George made anyway,  
11 I don't think that the framework's approach is  
12 to declare victory after that. I think the goal  
13 of the framework is then to take those sites  
14 and programs and break them down into some  
15 meaningful regional or ecosystem level and then  
16 work with those folks to identify what the  
17 priorities are.

18 Look at the conductivity kinds of  
19 issues, look at what is being protected and how  
20 does that match up, especially to the specific  
21 objectives that are laid out in here. And how  
22 did those relate down to the regional level.

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1           So an objective for the region is  
2           to protect all spawning, aggregation and  
3           commercial enterprises, that's something --

4           Folks working through the national system  
5           could look at how things are protected under  
6           these existing areas, where there are  
7           opportunities to enhance protections within  
8           existing areas and where they may be new areas  
9           that need to be established. But again that's  
10          a more bottoms up approach that the framework  
11          looks to facilitate as opposed to impose some  
12          top down set of guidelines that these X number  
13          of things must be accomplished.

14                   DR. BROMLEY:     Bob?

15                   MR. ZALES:     I just want to make sure  
16                   I've got the numbers straight in my mind.  
17                   There's 1,500 or so MMAs and you said 90 --

18  
19                   MR. KELSEY:     That we've already  
20                   inventoried. We think there are as many as 2,000.

21  
22                   MR. ZALES:     Yes, and you said 90

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1 percent of them are in state jurisdictions?

2 MR. KELSEY: About 85 percent of  
3 them are in state jurisdiction.

4 MR. ZALES: And Charlie just said  
5 that about 25 to 35 percent of the 1,500 or so  
6 MMAs are covering 25 to 35 percent of borders  
7 in the EEZ? Did I hear that?

8 MR. WAHLE: No, the second part and  
9 I'm remembering this from a figure so I'll have  
10 to check it. But the percentage of the EEZ that  
11 is covered by some kind of MMA is more than you  
12 would think and it's 25 plus. But the percentage  
13 that's covered by really protected ones is in  
14 the less than one percent category.

15 MR. ZALES: Okay. But what I was  
16 trying to understand is then that would say what,  
17 10 to 15 percent of the MMAs are in federal  
18 jurisdiction, I guess in the EEZ, so in that  
19 10 to 15 percent you're covering 25 to 35 percent  
20 of what the sum number is?

21 MR. WAHLE: That's a good question.  
22 The pattern changes from region to region.

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1 In the Gulf and the West Coast for sure the  
2 pattern is that there are more individual sites  
3 in state waters managed by states, but the big  
4 ones are federal, typically set up by the fishery  
5 service for some form of fishery management.

6 So there's this difference between the number  
7 and the size. The number of the states dominate  
8 in terms of authority but in size it's the  
9 federal sites.

10 MR. URAVITCH: Let me just interject  
11 here. The difference between the 1,500 and  
12 2,000 is we're still awaiting some state data.

13 We have about five states that are still  
14 providing us their final sets of information  
15 and there are about eight states where we don't  
16 have information yet and we hope to obtain that  
17 as we move forward. So that's why we don't  
18 have a specific number for you yet.

19 MR. ZALES: One quick follow up.  
20 Charlie, at some point in the near future is  
21 it possible to work up some kind of chart or  
22 something with that information on there?

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1                   MR. WAHLE:           Yes.    We will be  
2 presenting some of that on Wednesday. Thursday,  
3 sorry.

4                   MR. ZALES:        Okay.  Thank you.

5                   DR. BROMLEY:     All right.  Mark?

6                   DR. HIXON:        Thanks.  Two things.  
7 First, getting back to George's issue, I believe  
8 it's going to be very important so that there's  
9 not say some political move to declare victory  
10 and call it quits, to emphasize the importance  
11 of the analysis once the initial system is  
12 declared.  I think that's going to be absolutely  
13 essential right up front.

14                   And then the second thing is getting  
15 back to this sticky issue of lasting.  Having  
16 been on the committee that came up with that  
17 original definition, one of the things it  
18 grappled with and I know this is extremely true  
19 here in Oregon, is the belief, especially by  
20 members of the fishing community that once one  
21 of these things goes in it'll be there forever.

22                   There's no way to get it out.  I hear that

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1 all the time.

2 And so if the Feds decide to stick  
3 with permanent there needs to be I think right  
4 up front with that some statement about, you  
5 know, these things can be rescinded by  
6 legislation or something of that sort. Or to  
7 stick with it ten years. I mean if they're all  
8 permanent anyway it doesn't matter if you say  
9 ten years or not.

10 That was one of the things you're  
11 grappling with. It's easier for people in saying  
12 okay, I can live with this for ten years. Let's  
13 see if it works or not. But the word "permanent"  
14 just always raises hackles. So I'd just  
15 recommend you be very careful with that word.

16  
17 MR. KELSEY: And just let me say  
18 one thing. If you look at the definition there  
19 are some specific discussions on the definition  
20 and clarification of how this permanent relates  
21 to particularly sustainable production sites.

22

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1           And thinking about permanent in the  
2 context of permanent areas that are put in place  
3 to achieve certain rebuilding type goal for a  
4 fishery would be considered permanent because  
5 they are set in place for achieving a certain  
6 objective and at the point that that objective  
7 is achieved the site would be turned off.

8           So there's some discussion in that  
9 definition that there is some exception for  
10 sustainable production sites and those could  
11 be included based on a set of goals, biological  
12 type goals for rebuilding the stock.

13           DR. HIXON: So if that's true I don't  
14 see a reason to associate the word "permanent"  
15 with that. I think it's just unnecessarily going  
16 to raise some ire.

17           MR. KELSEY: And just on the other  
18 side, on your point about the Feds deciding to  
19 stick with it. We're trying to work out a  
20 national dialogue. We'll be looking at taking  
21 into serious consideration all the comments that  
22 we receive on that.

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1           And then on the last point you made  
2           which was on the gap analysis, that is actually,  
3           it was phase 3 in one of the earlier drafts and  
4           it's an actual step in the framework to actually  
5           sit down and facilitate a dialogue that would  
6           take a look at gaps in the system based on what  
7           exists and what --

8           MR. BOWMAN:     And on the one point  
9           you made with respect to the fishermen accepting  
10          these, we really need to keep in mind that MPA  
11          does not equal no fishing.   Less than I think  
12          what is it one percent of these areas are closed  
13          to fishing.     So hopefully that's something I  
14          guess we continue to need to do education on.

15          But MPA does not necessarily have anything to  
16          do with restrictions on fishing.

17                 It might, if that was the purpose  
18          of an MPA but there's no correlation anywhere  
19          in anything that this effort is underway to  
20          restrict fishing.

21                 MS. GOETHEL:     I'm going to agree  
22          with Mark.  I see that you used the word "lasting"

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1 in your final definition and then have  
2 exceptions to it. I see lawsuits coming in down  
3 the road and red flags, every fishing community  
4 known to man. I really think that's a serious  
5 issue that's going to come up to block the  
6 forward movement of the MPA.

7 And as far as the fishing  
8 communities are concerned, I think that it's  
9 such a sore point because there have been MPAs  
10 in different regions that have gone in for the  
11 exclusive purpose to allow fishing that have  
12 been closed to fishing. So there's no trust.

13 And you need to keep that in mind if we're going  
14 forward so that you don't inadvertently put  
15 something up that's going to cause a lot of  
16 antagonism.

17 DR. AGARDY: I just don't want to  
18 keep beating a dying horse but you say that it's  
19 defined in the framework so there is no  
20 definition for protection, and lasting is a very  
21 vague definition currently in the glossary of  
22 terms.

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1 I'm not trying to be critical of what  
2 you guys have come up with in terms of the  
3 framework but it would take I think a sleuth  
4 to try and find what you actually mean by  
5 protection according to what you just said which  
6 I didn't wholly understand, but I concur with  
7 Ellen and Mark both that the reason we came up  
8 with a ten year figure is to try and circumvent  
9 this perception problem.

10 MR. KELSEY: Protection does have  
11 a definition and it's one of the criteria.

12 DR. AGARDY: Okay. Then you should  
13 put it in the glossary, you know.

14 MR. KELSEY: Okay.

15 MR. PETERSON: I'm a little bit  
16 concerned that the definition in this book  
17 certainly says lasting means permanent. And  
18 then if you look at removing here in the MPA  
19 there's no example of remove --

20 So I think we may have created a  
21 problem we didn't mean to create by suggesting  
22 that the only way you can get a hearing, make

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1 a hearing to the MPA to agree to a permanent  
2 exception, although the nominating agency could  
3 change that, it sort of looks like we're opting  
4 for a permanent exception in every case. And  
5 maybe that's the way most of them will be but  
6 I think it's unfortunate that that's the only  
7 way.

8 MR. LAPOINTE: The question of the  
9 1,500 areas and what it means, I think it would  
10 help and it would certainly help me, if we look  
11 at what this means regionally.

12 If I think about the Gulf of Maine  
13 and recognize that I'm one of those fish guys,  
14 but with the New England Council I've got this  
15 big map of the entire New England area and also  
16 at the state level we've got some specific areas  
17 like the -- River that are in place statutorily  
18 and they prevent activities that impact. So  
19 that's very specific and it was done at the state  
20 level.

21 And in fact if you go up to the New  
22 England Council, the state law of the New England

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1 Council area there are seasonal spawning area  
2 protections that would get included in this.

3 And so put it in context I think what  
4 I'm going to have to do, and I would suggest  
5 others might as well, is in their region make  
6 a map of what these areas look like. They may  
7 have already done that. And I think it would  
8 be really useful to see you know what the net  
9 effect is, because again I'm concerned about  
10 taking too much credit for the big tent and not  
11 really getting at some of the core issues we  
12 all get together for in the first place, and  
13 that's not downplaying the success or the value  
14 of those other areas, just in being realistic  
15 about why the Executive Order was put together  
16 and why we've been working on this issue.

17 And then the gap analysis, I must  
18 mention is really important so that we know kind  
19 of the scope that's ahead of us. And I think  
20 that's important for folks who've been less  
21 involved in the issue as well.

22 MR. KELSEY: That's a good point

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1 and Ricky is going to present on Friday some  
2 of the specific regional breakdown of looking  
3 at the West Coast. And so I would say down the  
4 road, over the course of the next few months,  
5 especially as we're getting the geographic  
6 information together that we'll be producing  
7 those kinds of products for other regions to  
8 help folks think about this better. I think  
9 it's a very good point.

10 DR. RAY: Just a general comment  
11 and it's interesting when you start talking  
12 about large areas being covered by managed areas  
13 or MPAs, how that coincides or overlaps with  
14 over-arching regulations such as essential fish  
15 habitat which covers the entire EEZ.

16 So it just becomes, again I think  
17 when you talk with the general public that's  
18 going to become kind of confusing talk about  
19 starting to set up MPAs related to some fish  
20 management issues when there's already some  
21 over-arching.

22 Same thing under the Marine Mammal

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1 Protection Act, you may have areas that may be  
2 proposed as MPAs with the primary focus dealing  
3 with marine mammal protection areas. And the  
4 question we'll be raising in some of those is  
5 whether or not some of those are not already  
6 covered under the Marine Mammal Protection Act.

7 It kind of raises a question and  
8 there might be some interesting discussions  
9 within the groups, too.

10 DR. BROMLEY: Gil?

11 DR. RADONSKI: Just a question, is  
12 this draft framework available in pdf format?

13 MR. KELSEY: It is on the web site.

14 Any other questions?

15 DR. MURRAY: I turn to your glossary  
16 here in these marine managed areas and I guess  
17 I'm having a little overall trouble with the  
18 notion that literally what I'm hearing all the  
19 marine managed areas have the potential to  
20 become marine protected areas.

21 MR. KELSEY: Many of them not all.

22 DR. MURRAY: Well when you say 1,500,

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1 which is I think what your slide said a moment  
2 ago and you say that you have 1,500 that you've  
3 inventoried, 1,500 equals 1,500 and we spend  
4 a lot of time trying to differentiate a marine  
5 protected area from a marine managed area. In  
6 fact that was a good bit of our work was about  
7 that produced our earlier report.

8           When I go over your glossary where  
9 it says marine managed area, and this is on page  
10 43, it says marine environment that has been  
11 reserved by federal, state, territorial, tribal  
12 or local laws or regulations to provide lasting  
13 protection for part or all of the national or  
14 cultural resources therein. Then comes lasting  
15 protection as part of the marine managed area  
16 definition. It seems to me to be wrong.

17           MR. KELSEY: Well the way it's set  
18 up is that Marine Managed Area and Marine  
19 Protected Area both use the general definition  
20 from the Executive Order. What Marine Managed  
21 Area does is it sets the definitions for five  
22 P terms. Marine Protected Area also sets the

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1 definitions for those five P terms. Four of  
2 those P terms are the same between Marine Managed  
3 Area and Marine Protected Area.

4 Last thing under Marine Managed Area  
5 is set at must be in place for -- last thing  
6 under Marine Protected Area is set at it must  
7 be established with intent to provide--

8 DR. MURRAY: So you go to your  
9 glossary and it says lasting, in the glossary  
10 it says must be established with the intent at  
11 the time of designation to provide permanent  
12 protection. I think you have a real confounding  
13 message that's being set here.

14 DR. BROMLEY: Can we have some  
15 response here?

16 DR. HIXON: Jonathan, I think this  
17 can be cleared up pretty quickly in the glossary.  
18 Right now the glossary entries for marine  
19 managed area I think would drive almost any  
20 stakeholder crazy. I mean it's really, really  
21 off the scale.

22 And the simple way around this is

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1 you simply say lasting means (a) or an MMA and  
2 (b) or an MPA. Simple.

3 And then under definition of Marine  
4 Managed Area go ahead and give the federal  
5 definition and just say where lasting means  
6 da-da-da-da and everything else means what it  
7 says in this glossary. Because that paragraph  
8 is just really, I can see people getting really  
9 irritated with it.

10 MR. KELSEY: The one group that I  
11 left out of the stakeholders that were involved  
12 were lawyers.

13 DR. BROMLEY: You have 15 minutes.

14  
15 MR. KELSEY: So thinking about how  
16 this criteria that we've just been talking about  
17 then get applied to look at the existing sites  
18 that would be eligible to be brought into the  
19 national system, and again this is for existing  
20 sites, sites that are out there and established  
21 right now, not new sites or new areas that folks  
22 are interested in having designated.

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1                   The        framework        outlines        a  
2        consultation process essentially between the  
3        MPA Center and their agencies that manage these  
4        areas.    And this is a brief summary of that  
5        process.   Essentially, how it works out is that  
6        MPA programs for an MPA Center can identify sites  
7        or set of sites, a suite of sites that might  
8        apply to the program or an existing system that  
9        meet the criteria.

10                   For example, the MPA Center will  
11        most likely filter through the inventory and  
12        find those sites that we think meet the criteria.

13                   For those sites that do meet the  
14        criteria then there will be a consultation  
15        process between the MPA Center who's  
16        facilitating this and that agency to determine  
17        whether they're interested in having their site  
18        participate.   And again this is very important  
19        in regard to state, territorial, tribal, local  
20        government sites because their participation  
21        is voluntary.   So there will be a consultation  
22        process to see if they want to participate and

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1 would like to have their sites--

2 And yes there's a brief nomination  
3 form which we have yet to develop but it would  
4 likely be some subset of the information that's  
5 already in the MMA inventory. It would be filled  
6 out and signed giving that approval to nominate  
7 the site from the agency.

8 The MPA Center will publish a list  
9 of these sites that have been nominated in the  
10 Federal Register. We talk about how the timing  
11 would work out on that and in the beginning we'll  
12 probably be publishing these more often than  
13 not and at the end maybe it would be more like  
14 once a year.

15 So we'll be looking for public  
16 comment on whether these sites meet the criteria  
17 and any comments that we receive would then be  
18 forwarded to the nominating agency. They can  
19 review those comments and essentially then make  
20 the final determination of whether or not they  
21 want to participate in the national system.

22 Those that make that final

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1 determination at that point then become partners  
2 in the national system and those sites are added  
3 to the official list of MPAs and that list is  
4 something that's called for in the Executive  
5 Order and I'll talk a little bit more about where  
6 that list comes into play and some of the other  
7 components for the framework of a national  
8 system.

9           So this is essentially a fairly  
10 abbreviated consultation process to bring  
11 existing MPAs into the national system as  
12 partners.

13           And then what happens next. This  
14 is some of the points that George was raising  
15 and others that is really driven by the partners  
16 and can be facilitated by the MPA Center, that  
17 can be facilitated by the MPA Center though  
18 because there may be other groups that are  
19 interested and willing to step up to the plate  
20 in various regions that have the capacity and  
21 capability and are already doing the  
22 coordination that really helped advance the

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1 national system in whatever that scale is.

2 So the framework outlines  
3 essentially two steps in this case as we move  
4 forward beyond bringing existing sites in.  
5 The first is looking at the types of priorities  
6 that sites might have at a regional level or  
7 an ecosystem level for improving their technical  
8 capabilities, their management capabilities,  
9 including coordination in general, various  
10 kinds of activities that might help them improve  
11 the effectiveness of their management of their  
12 existing sites.

13 So it calls on these programs and  
14 partners to sit down and discuss and identify  
15 what those priorities should be at that regional  
16 level however it's determined, their scale is  
17 determined. And then those essentially are the  
18 priorities that the national system then focuses  
19 on. So it's a bottoms up process for determining  
20 what the national system should try to  
21 accomplish.

22 The framework also outlines the step

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1 which is after having the initial discussion,  
2 the timing is determined by the folks working  
3 in the region that it would be appropriate to  
4 take a look at how the existing suite of sites  
5 match up to what the more comprehensive set of  
6 MPA rules and objectives might be for that  
7 ecosystem or region.

8 So this is where the gap analysis  
9 maybe comes into play and that's identifying  
10 existing areas that may need additional  
11 protection or new areas that need protecting.

12 But again this is driven by the  
13 partners in the national system in not only how  
14 that happens but also when that happens.

15 So once these kinds of priorities  
16 are identified, whether it's to go full on and  
17 jump right into it a gap analysis or whether  
18 it's to focus on the sites in the region, this  
19 is where the partners get those priorities and  
20 work with the MPA Center to really identify  
21 initiatives to address these shared needs and  
22 take action to help advance what has been

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1 identified as a need across whatever scale this  
2 is.

3 And there are some other framework  
4 components that are significant that I'll  
5 mention. One is that there's a national system  
6 steering committee that's loosely described as  
7 a framework that would be made up of regional  
8 and national representatives of the department  
9 and national system which is in some kind in  
10 a general sense a national forum for  
11 communicating regional needs at the national  
12 level and set national priorities for the  
13 national system and also look at whether  
14 international linkages that would be useful for  
15 the national system to address, etc.

16 This is again loosely described in  
17 the framework and I believe there's even a  
18 comment in there asking for input from in  
19 particular the types of agencies and programs  
20 that would make up the national system for what  
21 this should be and how it should work.

22 But I think it's important that

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1 there be some kind of steering committee that  
2 is more focused operationally and more connected  
3 to the MPA programs and partners that are a part  
4 of the national system that is driving the  
5 priorities.

6 MR. LAPOINTE: When I was reading  
7 through this is struck me that the steering  
8 committee and our -- in my mind there's blurry  
9 definitions between the two of them and if you  
10 weren't careful you could end up with redundancy  
11 and institutional competition that wouldn't be  
12 productive. And so what are your thoughts on  
13 why have two at once?

14 MR. KELSEY: Well, I think the idea  
15 here is that again this steering committee will  
16 be more connected to and made up of the actual  
17 sites and programs that are participating in  
18 the national system.

19 So they're driving some of the more  
20 underground priorities that are there, they're  
21 working on funding issues and they're connected  
22 within their governance to be able to establish

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1 priorities and drive initiatives for getting  
2 work done on the ground, whereas the advisory  
3 committee is more looking at the long term,  
4 what's the big picture, how does a national  
5 system integrate with other activities that are  
6 going on within the broader ecosystem context  
7 and providing some more general guidance and  
8 ideas for where the national system should go  
9 from a cross section of representatives and  
10 stakeholder groups around the country.

11 So as envisioned it's a slightly  
12 different set of folks that would be focused  
13 on a different set of issues, but obviously we'd  
14 be looking for input from folks on whether there  
15 is too much potential overlap, that there should  
16 be something done to disintegrate these into  
17 one group, or whether there's not enough and  
18 we need them both. Joe?

19 MR. URAVITCH: Yes, I think the  
20 intent here is really sort of planning and  
21 operations and then down at the more detailed  
22 level would be really the work that's taking

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1 place under this interagency agreement with the  
2 seamless network of Marine Protected Areas,  
3 sanctuaries, reserves, parks, refuges and any  
4 other partners they pick up at that sub-regional  
5 level.

6 This group is really the agency  
7 sitting at a national level or cross levels of  
8 government trying to do some operational  
9 planning and thinking across all these programs  
10 on a national basis, whereas the advisory  
11 committee is more focused on, you know, what  
12 are you turkeys doing? This is what your plans  
13 are, this is what your operations are but you've  
14 missed the following or you're missing the big  
15 picture or something of that nature.

16 So that's where we see the advisory  
17 committee is looking at how this national system  
18 is functioning, how the steering committee is  
19 making it happen and probably starting to advise  
20 that group.

21 MR. KELSEY: And I also believe that  
22 there is a step in here where priorities that

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1 get established by this group do come in front  
2 of the advisory committee. I'm pretty sure that  
3 that's so.

4 MR. LAPOINTE: Just a follow up  
5 comment on this issue at this point but I have  
6 to think about --

7 MR. KELSEY: I think the other issue  
8 is, as you're all aware of this, a lot of  
9 regulations that go along with having a formal  
10 federal advisory committee that could be  
11 constraining and could offer opportunities on  
12 the other hand. So I think we have to look at  
13 the pros and cons of it.

14 DR. AGARDY: So Jonathan, was this  
15 meant to be then a planning committee that will  
16 just be kind of front loading the national system  
17 and then would disappear over time and, if so,  
18 what would take its place in terms of actually  
19 managing an operational --

20 MR. KELSEY: Well I think this is  
21 long term, this is not anticipated just to be  
22 in the short term for front loading. There's

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1       been ongoing efforts at the regional level, MPA  
2       programs are working together, they're  
3       identifying priorities. This is a place, a forum  
4       where those can continually be brought up,  
5       things can go into DOI budgets and AOP planning  
6       processes and whatever it may be for support--

7

8                   DR. AGARDY:   And is it the case that  
9       the FAC is a never ending thing? I thought the  
10      FAC was something of limited duration.

11                   MR. KELSEY:   Joe?

12                   MR. URAVITCH:   Yes, every two years  
13      we have to go through a charter, a legal process  
14      and a justification process as to why the Federal  
15      Advisory Committee should continue to exist.

16                   We're in the process of now getting  
17      the charter re-approved by the Department of  
18      Commerce. It's the agency's belief that the  
19      committee needs to move forward still as we  
20      proceed with the development of the national  
21      system.

22                   But theoretically there could come

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1 a point at which there may not need to be a  
2 committee, and that's been asked to us several  
3 times and basically they've agreed that there  
4 is a need for the committee to continue at this  
5 point and so it's the intent for the committee  
6 to go for at least another two years. But we  
7 do have to re-examine every two years.

8 MS. GOETHEL: I guess my question  
9 would be do you foresee stakeholders being on  
10 the steering committee?

11 MR. KELSEY: I think as it's  
12 described right now I don't believe that there  
13 are but this is why we've left at it wide open  
14 to get that kind of --

15 MS. GOETHEL: I would find with the  
16 potential that the FAC disappears at some point  
17 it would be essential, if you're going to have  
18 a steering committee, to have stakeholders on  
19 it.

20 MR. URAVITCH: That may be the  
21 reason why we need to keep the advisory committee  
22 because once you put non-agencies on there we're

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1 suddenly in violation of the Federal Advisory  
2 Committee Act. It becomes an advisory committee  
3 in effect and so you're basically making the  
4 argument that the advisory committee has no need  
5 to continue because there would be no way for  
6 us to put non-governmental partners onto a  
7 steering committee.

8 MS. GOETHEL: I still would say that  
9 I'd like to say stakeholders on it.

10 MR. URAVITCH: Then that would have  
11 to fall under the Advisory Committee Act. I  
12 just don't think we can legally do that.

13 MR. LAPOINTE: In following up on  
14 that, I'm aware of some of the restrictions on  
15 the Advisory Committee Act and I just think that,  
16 and I'm not yet convinced that you couldn't have,  
17 call it an advisory committee I don't care, you  
18 know, change the advisory committee so that in  
19 fact you get both functions out of one group.  
20 I think that's worthy of consideration.

21 MR. KELSEY: There is the notion  
22 that you can set up formal working groups under

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1 an advisory committee that can bring in folks  
2 from the outside.

3 MR. LAPOINTE: That was in our  
4 charter.

5 MR. KELSEY: I mean we're  
6 essentially looking for ideas here so this is  
7 great.

8 DR. BROMLEY: So Bob, then Tony.

9 MR. ZALES: A question and then a  
10 suggestion. The question is because I'm not  
11 really familiar with FAC stuff, but do federal  
12 and state representatives whenever they meet,  
13 do they have to go through FACA things or they  
14 can do their thing?

15 MR. KELSEY: They can do their thing  
16 because they're all government--

17 MR. ZALES: Well the reason why I  
18 ask is because back last month in Denver the  
19 fishery service held a private meeting amongst  
20 federal and state on this new data collection  
21 thing that wasn't even noticed to the public.  
22 We didn't even have a chance to sit in on it.

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And so I would suggest that this steering committee or whatever's going to be done, a brochure, a memo at public notice and allow at least the public to sit in the process so it's not held in a vacuum perception as a big player here and it creates a whole lot of problems.

MR. KELSEY: Thanks Bob. Tony?

DR. CHATWIN: Thank you. The thing that I'm concerned about and I'm going to bring up the same issue that I mentioned earlier, but I asked about setting goals, a more specific goal that would then be delegated to a regional discussion.

And now I've seen that there's going to be a national steering committee that is going to talk about operations and at the end of the day that is where decisions get made to decide what happens and what doesn't by the agencies that are going to be involved. Specifically, if it doesn't get translated into operation it

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1 doesn't happen.

2           So my question is that I'm not seeing  
3 a point at which the public is going to be able  
4 to see what are the goals that this committee  
5 is going to be working against?

6           Here's a committee that's going to  
7 be extremely important because it's going to  
8 translate sort of the intent into action through  
9 the various agencies and the intent is going  
10 to be developed on a regional level yet these  
11 discussions are going to happen on a national  
12 level. I don't see how that's going to align.

13           MR. URAVITCH: I think we could  
14 easily build into the final version of the  
15 framework the policies and procedures that would  
16 be used by this kind of institution, basically  
17 saying we will follow public notice, we will  
18 follow certain procedures. We will make  
19 information available.

20           And that's the kind of ideas we're  
21 looking for is, you know, how do you bind  
22 whoever's going to be on this group to a clear

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1 and open public process in terms of  
2 deliberations and decision making.

3 MR. BOWMAN: Yes, to follow up on  
4 that. The other thing we need to keep in mind  
5 if you look on here it's a national forum for  
6 communicating regional needs and it helps set  
7 priorities but it's unlikely, at least initially,  
8 that that group would actually be able to set  
9 priorities because we've sort of envisioned it  
10 as going to be your park and refuge and sanctuary  
11 managers, one or two picked from each region  
12 and sent in to help coordinate the regional  
13 needs.

14 But they're going to still have to  
15 go back then to their agencies to get policy  
16 calls, budget decisions and so on. It may evolve  
17 at some point where the agencies would delegate  
18 that to this group but initially I think it's  
19 highly unlikely that that would happen. So I  
20 think that perhaps you're putting more  
21 importance on this group than it really deserves.

22

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1           It's intended to be a coordinating  
2 body, it's not going to be the director of the  
3 Fish and Wildlife Service and the director of  
4 NIPS and their counterparts sitting down, it's  
5 going to be that each agency will designate one  
6 or two of their managers in the field or a field  
7 manager and a regional office person to go there  
8 to make sure that their particular needs in that  
9 region are being heard at the national level  
10 and that they've got the maximum possible  
11 coordination.

12           But it's not going to be that they're  
13 going to sit there and run the whole system.

14           DR. CHATWIN:     Thank you.     That's  
15 really interesting.     Is there going to be a  
16 structure where the director and their  
17 counterparts of the different agencies get  
18 together and discuss things?     I think that's  
19 extremely important, more so than having someone  
20 who runs one of the sites talk to someone else  
21 who runs one of the other sites within different  
22 programs to come in and talk about their needs.

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1 MR. BOWMAN: We just haven't gotten  
2 that far. I mean initially there have been bits  
3 and pieces of this. I mean did the directors  
4 attend the seamless network thing? I wasn't  
5 able to go to that. But there have been bits  
6 and pieces, things under the Ocean Action Plan  
7 where these folks have gotten together.

8 But we just haven't built that into  
9 this because that's a very specific thing that  
10 would be dependent on a whole lot of variables  
11 that we couldn't call right now for next year  
12 even for example.

13 MR. KELSEY: I do believe also the  
14 way that this is described right now anyways  
15 we have included a set of representatives from  
16 our federal interagency working group that would  
17 be the agency's designated representatives to  
18 this body that could take back those priorities  
19 and put them into planning processes there.

20 For example, Joe and Randy as the  
21 representative from DOI plus some other MPA  
22 program representatives so there are agency

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1 representatives there to balance this out with  
2 other regional folks and some non-federal folks.

3  
4 DR. CHATWIN: And let me just my  
5 last comment and I'll make it very quick. At  
6 some point, and it's not clear to me where this  
7 happens, but at some point there has to be a  
8 discussion about how the national fisheries  
9 service can advance towards its objectives where  
10 the sites under its jurisdiction are part of  
11 a national system. And whether that sort of  
12 discussion takes place is not clear to me within  
13 the framework you've laid.

14 What I heard is that FACA -- and it  
15 makes a lot of sense, but that is a national  
16 issue that needs to have discussion at a national  
17 level as well. And that's what I'm not seeing.

18 MR. KELSEY: I think that's a good  
19 point and as I've outlined in the framework and  
20 I think we've already heard within the national  
21 marine fisheries, the folks that we work this,  
22 but those are things that each of these programs

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1 need to make a determination on how they're going  
2 to participate.

3 MS. GLACKIN: I want to ask Tony  
4 a follow up. Is your concern there really with  
5 the federal programs or also with the state  
6 programs and how would you kind of see it if  
7 it includes the state programs?

8 DR. CHATWIN: I think, well I think  
9 that the discussions won't have to happen all  
10 at the same time but as far as far as the national  
11 system that includes tribal, state and federal  
12 authorities, it has to be clear. Well I know  
13 at the national level that might happen.

14 MS. GLACKIN: It seems to me that's  
15 the challenge in this whole thing is that it's  
16 one thing for the federal government to bring  
17 the federal agencies together, and we frequently  
18 see that for a lot of things, but the concern  
19 that we have here is creating a national system  
20 and then reach to who actually manages those  
21 assets and makes those fiscal decisions and  
22 things like that.

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1                   And I think that's the challenge and  
2 I think this was part of trying to get to that  
3 challenge.

4                   MR. KELSEY: I have a few more people  
5 with questions.

6                   DR. BROMLEY: Get your list.

7                   MR. KELSEY: Yes, I have Dan, Max,  
8 Dennis, Mike, Tundi.

9                   DR. BROMLEY: Who else wants to get  
10 in this? Dan Suman does, okay.

11                   MR. KELSEY: And I think I have maybe  
12 two more slides.

13                   DR. BROMLEY: Okay. When we come  
14 back from break we'll have an hour yet so let's  
15 do a break now, come back at 10:15. You say  
16 you have two more slides? Okay. Fine.

17                   (A SHORT BREAK WAS TAKEN.)

18                   DR. BROMLEY: Why don't we pick up  
19 where we left off. Jonathan, you have a list  
20 of people?

21                   MR. KELSEY: Yes. Dan's first on  
22 the list but he's getting coffee so we'll come

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1 back to him.

2 DR. BROMLEY: Max, are you ready?

3 Okay. So we'll pick up where we left off with  
4 Jonathan.

5 MR. PETERSON: I really believe that  
6 you'd eliminate some concern if you simply call  
7 this coordinate. The authority rests with the  
8 individual -- invite anybody who wants to can  
9 come to a coordinating meeting whoever they are.

10

11 MR. KELSEY: Thanks. Dan?

12 DR. SUMAN: I just want to ask about,  
13 on what will be the role then of the MPA Center  
14 as a coordinating body of the national system?

15 MR. KELSEY: I think the MPA  
16 Center's role is really to sort of provide the  
17 overall coordination, facilitation of these  
18 efforts, so really to help convene the dialogues  
19 where they need to be convened, to manage and  
20 keep track of the process for bringing existing  
21 sites into the national system, to make sure  
22 that information is communicated outward

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1 through other audits that I'll talk about in  
2 a couple of minutes, etc.

3 So I think that there's a whole  
4 specific set of bullets in the draft framework  
5 that outlines, and they're multiple and I can't  
6 give them all to you right off the top of my  
7 head but I think there's about ten. But it's  
8 generally to provide the overall coordination  
9 and cohesion, and then providing that  
10 information outward to others so that they know  
11 what's going on. I think in a general sense  
12 that's it.

13 DR. SUMAN: And do you expect that  
14 this will be interpreted really broadly by the  
15 federal agencies that essentially any federal  
16 action in our waters will have a literal  
17 discussion on -- Anything? Because it will  
18 be very broadly interpreted or not?

19 MR. KELSEY: Well, I think that  
20 will depend on the agency how they interpret  
21 it. I mean essentially the avoid harm guidance  
22 is based on this section of the Executive Order

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1 that said an agency needs to identify its actions  
2 that may affect resources protected by MPAs that  
3 are on the list of MPAs, so it says where that  
4 connection comes back to that list of MPAs that  
5 we talked about earlier.

6 And they have to, to the maximum  
7 extent allowable under existing law and to the  
8 maximum extent practical, they have to avoid  
9 harming those resources when they're taking  
10 those actions.

11 So in this sense agencies have to  
12 use their existing authorities because this is  
13 all under an Executive Order. It doesn't give  
14 agencies any new authority that can be applied  
15 to identifying actions or avoiding harm. They  
16 have to use their existing authorities. And  
17 how agencies use their existing authorities,  
18 whether it's an EPO or whether it's a National  
19 Historic Preservation Act, is usually subject  
20 to their interpretation and their processes for  
21 how they do it. So I wouldn't speculate on how  
22 the agency would interpret this.

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1 I think that the general like  
2 consensus around the table and talking with the  
3 federal agencies is that this like the Coral  
4 Reef Executive Order does, for example, gives  
5 agencies an opportunity to add an MPA specific  
6 land evaluation to their use of their existing  
7 authority.

8 So when they're looking at using  
9 NIPA to evaluate action that they're about to  
10 take, they can have a section in their NIPA  
11 analysis that talks about the relevance of this  
12 action to any resources in an MPA on the list  
13 that may be affected, and if they are and how  
14 they are avoiding onto those resources.

15 So they'd have to describe their  
16 interpretation I believe in their documentation  
17 as they use their existing authorities. Again,  
18 I won't speculate on how narrow or how broad  
19 that people will interpret this.

20 DR. SUMAN: Will there be space for  
21 the MPA Center to react to agencies, how agencies  
22 address this or not?

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1 MR. KELSEY: Well, there's a couple  
2 of related issues here. One is that any agency,  
3 the MPA Center, NOAA, Coast Guard, anyone can  
4 comment on another agency's implementation or  
5 execution of their requirements under this  
6 through whatever that process is and even as  
7 a way for agencies for trusting agencies to come  
8 and as a way for the public to comment on an  
9 agency's evaluation.

10 So any agency can register a comment.

11 This avoid harm guidance outlines two points  
12 here. One is that if an agency or the public  
13 is interested in how well or not well an agency  
14 is meeting its requirements, they're encouraged  
15 to work through those existing conduits set up  
16 under NIPO or whatever it is to register those  
17 complaints or that support if that happens to  
18 be the case.

19 Agencies also under the Executive  
20 Order every year have to submit an annual report  
21 and one of the elements of this annual report  
22 is actions that have been taken under this avoid

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1       harm guidance or under this Executive Order  
2       section on avoid harm, as well as other efforts  
3       that they've taken to implement the Executive  
4       Order.

5                        So in short then I would say there  
6       is no oversight role by NOAA, by DOI, by the  
7       MPA Center in evaluating how an agency is  
8       implementing this. It's not set up under the  
9       Executive Order, doesn't exist. But there are  
10      processes in place for agencies to do that.

11                      And then you have things like the  
12      steering committee and you have an interagency  
13      federal working group where those issues can  
14      come up and if there's a need for technical or  
15      other kinds of policy assistance the agencies  
16      want to improve how they're evaluating impacts,  
17      there are forms to go about doing that and that's  
18      what the guidance talks about is that  
19      implementation is up to the agencies, but  
20      there's these mechanisms where agencies can work  
21      together to help each other out.

22                      MR. URAVITCH:                      The federal

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1 interagency working group which consists of nine  
2 different agencies as well as all the MPA  
3 programs basically meets on a regular basis to  
4 address these kinds of issues, and one of the  
5 thing we agreed upon this year is what the  
6 process is going to be for avoid harm and how  
7 agencies will meet that. But the other is what's  
8 the content going to be of the annual report  
9 so there's a consistency across the agencies.

10

11 And so my guess is that as we move  
12 forward this group will probably meet more  
13 rather than less so there's an interagency forum  
14 that can meet to actually discuss these kinds  
15 of issues. And I'm sure those things will be  
16 raised.

17 DR. BROMLEY: Dennis, you're next.

18 DR. HEINEMANN: I want to go back  
19 to the steering committee. I'm not sure if the  
20 slide accurately reflects what you've got  
21 written in the framework document. In fact I'll  
22 just read a little bit of that. It says, a

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1 national system steering committee will be  
2 established, and I'm cutting some of the text  
3 out here, to provide advice to the MPA Center  
4 on annual and long term priorities for the plans  
5 for a national system support to sites and  
6 regions based on regional stewardship; (2) to  
7 identify management issues and other priorities  
8 that require inter regional, national and  
9 international coordination efforts; (3) provide  
10 a review and provide comment on MPA resource  
11 conservation priorities identified at various  
12 levels.

13 I think there's two thoughts I've  
14 got there. One is that that seems to be a large  
15 overlap with this committee and what the  
16 concerns that it has and (2) given the regional  
17 focus in some of the aspects of what the steering  
18 committee would be dealing with and the large  
19 stakeholder participation that's going to be  
20 occurring does occur and will continue to occur  
21 at regional levels, it seems that you've got  
22 to have a stakeholder representation on the

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1 steering committee if the FAC is not going to  
2 exist any longer.

3 So I think this conflict or overlap  
4 between the two needs to be resolved and the  
5 role of the stakeholders needs to be clear and  
6 maintained.

7 DR. BROMLEY: Thanks. Mike?

8 DR. CRUICKSHANK: National steering,  
9 what was I going to say, change the name from  
10 steering to coordinated I think it would make  
11 a lot easier.

12 DR. GARDY: I sense this creative  
13 tension going on between all of us wanting to  
14 be sure that the process by which this system  
15 is planned and implemented is participatory and  
16 is inclusive, and the need that I think all of  
17 us sense for leadership and coordination at the  
18 federal level.

19 And for once in my life I don't  
20 actually see a problem with a strong national  
21 system steering committee that doesn't have  
22 stakeholder representation.

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1           And the reason for that is that I  
2 think that that stakeholder representation has  
3 to be very, very strong at the regional level  
4 and that you have to be sure I think as you're  
5 presenting this that you're careful with the  
6 wording that when you say made up of regional  
7 and national, state, tribal, federal  
8 representatives, that you don't mean a token  
9 regional representative, but rather you're  
10 including the representatives from each region  
11 whose constituents are all of the stakeholders  
12 within that region.

13           Essentially they're representatives  
14 who like our political representatives ought  
15 to do, represent the needs and desires and  
16 realities on the ground and the perceptions of  
17 people in a region. So I mean I think all of  
18 that can be easily accomplished at the regional  
19 level.

20           But in addition to that there has  
21 to be a kind of overarching national  
22 coordinating body which is going to provide the

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1 leadership and is going to make sure that you  
2 know there's strong regions in all of the regions  
3 and it's not going to be just, you know, we can  
4 imagine that one of the regions or two of the  
5 regions might become very strong and move  
6 forward and have a very good process and come  
7 up with not just strengthen existing MPAs but  
8 also new MPAs that fill some of the gaps, but  
9 that other regions might fall between the cracks  
10 and not have that strength to mov forward.

11 So I think that there's a really  
12 important role for the coordinating or governing  
13 committee to play.

14 And I disagree Dennis with you, I  
15 guess I don't see the need for stakeholder  
16 representation there because I think it's  
17 achieved through the regional representation  
18 as long as you're sure that every region is well  
19 represented and it's not just a token regional  
20 person, a token federal person or a token person  
21 from each of the federal agencies, a token tribal  
22 representative. That it's really truly regional

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1 representation at that federal level.

2 DR. HEINEMANN: Just that I  
3 understand what you're saying, I don't disagree  
4 with it. I'm concerned about an imbalance  
5 between strong and integrated representations  
6 at the regional level of our stakeholders, and  
7 then a lack of any representation at the federal  
8 level where different sets but interacting  
9 decisions will be made.

10 MR. KELSEY: I think I have Bob next.  
11 Is there anyone else in the queue that I didn't  
12 see?

13 DR. BENDICK: I think we're going  
14 back to our original report and the incentives  
15 for actually doing this stuff, creating a  
16 national system. The impact on federal agency  
17 harm was an important incentive along with some  
18 other things on our list. And it doesn't seem  
19 to me how that mechanism is set out here is very  
20 sharply drawn, and I think that's something this  
21 committee ought to be discussing. And what  
22 mechanism could be put in place so that actually

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1 worked in a timely way to influence decisions  
2 because I don't really think it's quite there  
3 yet.

4 MR. KELSEY: Thanks. Any other  
5 questions? Okay.

6 And then I want to talk just briefly  
7 about a few of the tracking and sort of reporting  
8 mechanisms that are outlined in the framework.

9  
10 The Executive Order calls on other  
11 federal agencies to develop annual reports that  
12 include their efforts to meet the requirements  
13 under the avoid harm section as well as whatever  
14 other efforts they've taken to implement the  
15 Executive Order. And we've been working with  
16 agencies to develop some format or we're getting  
17 that done through the interagency working group.

18 But we've also outlined in the  
19 framework a biennial state of the national  
20 system report which is more than just a two year  
21 summary of the federal agency reports. It would  
22 also include summary information about what's

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1 happened over the course of that two years, what  
2 accomplishments have been made beyond the  
3 federal agencies working with states and tribes  
4 and territories, local governments and  
5 stakeholders. And what's the status of the  
6 national system developing, how many sites are  
7 a part of the national system regionally,  
8 nationally, how does it look.

9 And then a bit also about for the  
10 next period, the next two years coming up, what  
11 are some of the priorities that have been  
12 identified for how agencies will be working  
13 together under this umbrella of the national  
14 system. George?

15 MR. LAPOINTE: On the first issue  
16 to whom do the federal agencies report?

17 MR. KELSEY: Well correct me if I'm  
18 wrong here, but I think they send their reports  
19 to the MPA Center which puts them into a larger  
20 report and then it goes on uor web site.

21 MR. URAVITCH: Yes, the Executive  
22 Order just calls for agencies to provide an

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1 annual report and that it shall be posted on  
2 the MPA.com web site, that's the requirement.

3 There's no specific group, the Congress, the  
4 President, departmental heads to which they  
5 report.

6 MR. KELSEY: So we've also called  
7 for this planning report that would have more  
8 information in it, and then we've also  
9 identified the need for some more living type  
10 document that's ongoing that isn't for a finite  
11 period but tracks the national system over the  
12 course of time, which is very loosely described  
13 in the framework, and these are a few of the  
14 points that I describe in the framework, because  
15 we think that what this plan or set of priorities  
16 for the national system should be should be  
17 better scoped out by the agencies and partners  
18 that are going to be participating in the  
19 national system.

20 But at a minimum it will list out  
21 the national goals that are set, talk about some  
22 of the regional goals that are established or

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1 set as a subset of these larger national goals,  
2 talk about any of these conservation priorities,  
3 any of these gaps that have been identified.  
4 This is a place to keep those recorded.

5 Also talk about those sites and  
6 systems that are part of the national system  
7 as it's growing and evolving. So an ongoing  
8 inventory of this MPA list.

9 And then also outline what are these  
10 major stewardship and coordination priorities  
11 that have been identified as well. And are they  
12 being met? How are they being accomplished,  
13 and what's the prognosis for working on them  
14 in the future?

15 So this is a bit abstract at this  
16 point because we are hoping that we'll get more  
17 definition on this from sites in the systems  
18 that become part of the national system as we  
19 move forward.

20 So these are some of the fundamental  
21 tracking and reporting pieces and obviously they  
22 will all be publicly available and publicly

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1 accessible on the web site to stakeholders and  
2 partners.

3 DR. CHATWIN: First of all I think  
4 this is a great idea. I think we should move  
5 forward with this. Like you say the specifics  
6 are what's really going to matter. I think a  
7 state of the national system of MPA report will  
8 be most useful when the stated objectives for  
9 that system, clear objectives, and I always  
10 think of the state of Fisheries Act and the state  
11 of Fisheries Report is very useful because the  
12 act leaves out how fisheries should be managed  
13 and the report reports in relation to those  
14 guidelines where are the national fisheries.

15 And so something akin to that would  
16 be extremely useful, but we'll have to define  
17 what those guidelines are.

18 One thing that I'm a little bit  
19 concerned about is that if I understood  
20 correctly this biennial report would include  
21 the priorities for the next couple of years,  
22 something you mentioned. And because the

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1       specifics haven't been worked out, I would feel  
2       much more comfortable with that if I knew what  
3       was the process that would lead to identifying  
4       those priorities for the next couple of years,  
5       because potentially we would be seeing a  
6       document that comes out once every two years  
7       that sets in stone what's going to happen over  
8       the next two years as far as priorities --  
9       operational streamlining in relation to those  
10      priorities.

11                   And so I just put a caveat there that  
12      we need to understand much better what are the  
13      processes that needs to identify in those  
14      priorities.

15                   MR. KELSEY:     As it's envisioned  
16      right now it's sort of, not sort of, as it's  
17      envisioned now the way that it's -- those would  
18      be high level priorities.   They wouldn't be  
19      specific priorities but they'd be high level  
20      objectives for the next period and they would  
21      be based on priorities that came out of the  
22      regions and came up through some kind of national

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1 system coordinating or steering committee and  
2 were vetted through a Federal Advisory Committee  
3 etc.

4 So that's sort of the generic  
5 process for how that's envisioned at this point  
6 and I understand your interest in having more  
7 clarity on that.

8 DR. CHATWIN: And it seems to me  
9 that setting priorities for planning would have  
10 to be done perhaps in a longer term scale like  
11 say five years and then the reports, the annual  
12 or the biennial reports would help us understand  
13 where we are within that.

14 MR. KELSEY: Any other questions?

15 That's essentially it as far as going over  
16 the components of the national system. We kind  
17 of take a step back and think about what all  
18 of this adds up to as far as the overall approach,  
19 take it back to the beginning of when we started  
20 talking.

21 But the way that a national system  
22 and a framework has been developed right now

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1 and is laid out, it's really intended to  
2 highlight and support MPA efforts that are going  
3 on by all these partner MPA programs around the  
4 country.

5 So it's really intended to shine  
6 some light on what folks are doing as being the  
7 elements of this national system and then look  
8 at what are the priorities for all of these  
9 programs and how can we help to support them.

10

11 The other benefit here is really  
12 looking at the analysis and identification of  
13 gaps, which is we can look to have more effective  
14 use of MPAs by creating these forums at the  
15 regional level and in particular at the system  
16 level to bring MPA programs and stakeholders  
17 together to look at identifying gaps, look at  
18 identifying priorities for improving the  
19 effectiveness of existing areas.

20 All of this promotes government  
21 coordination and efficient use of resources  
22 obviously. And then the kinds of information

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1 that get developed both at the regional and  
2 national level, starting with some of the stuff  
3 that we've done already in the analysis of the  
4 Marine Managed Area inventory, we see this  
5 national system really helping to get more  
6 information out to the public domain to help  
7 agencies and the public improve their ability  
8 to make informed decisions about not only where  
9 local processes go but where things like a  
10 national system should go as well.

11 So as far as where we head from here,  
12 this fall and winter will be outreaching more  
13 on the framework and where we have resources  
14 available take it out into various meetings and  
15 conferences and have more focus meetings with  
16 different partners.

17 The comment period ends on --  
18 In the spring after the comment period closes  
19 we'll be working through a process to develop  
20 a final framework that takes into account all  
21 of these comments that we've received, and that  
22 final framework will also include a response

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1 to comments.

2 And begin at the end of this year  
3 or early in 2008 to really look at identifying  
4 those potentially eligible sites that are out  
5 there and starting the consultation process to  
6 the extent that we can given the resources we  
7 have. It may be focused in a certain region,  
8 it may be focused on a certain theme, cultural  
9 heritage or something like that.

10 We'll have to see how that plays out  
11 and there's some planning that we'll be doing  
12 with the MPA Center and with partners to figure  
13 out how best to go about doing that. And we're  
14 building the foundation for a lot of real  
15 implementation of the framework on the West  
16 Coast through the West Coast pilot that you're  
17 going to hear more about on Wednesday, and so  
18 that will be a big focus process as we move into  
19 2008 and look at really formally implementing  
20 this once the final is developed.

21 So that's sort of the next 18 months  
22 or so. So that's all I have for right now.

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1 I can take other questions from the committee.

2

3 DR. BENDICK: Again in our original  
4 discussions we talked about funding for all of  
5 this stuff. Seems like there are two levels  
6 of funding; one is to support the basis MPA  
7 Center as related functions to keep the system  
8 growing and support it, and then ultimately some  
9 sort of incentive funding for people to be  
10 members of or to inspire innovation activities  
11 and things like that.

12 In the discussions that you've had  
13 in drawing this up there's no that I can find  
14 mention of funding in the report. Was there  
15 a mention of funding or was that out of bounds  
16 from what your task was?

17 MR. URAVITCH: Well, we have to work  
18 through the planning process within our  
19 respective agencies and the annual  
20 appropriations process. So there's obviously  
21 discussions within the agency on how will that  
22 proceed but that's as far as it goes, which is

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1 one reason why we've left the incentives process  
2 open at this point.

3 We really need to hear from people  
4 in terms of what they think the national system  
5 ought to be proposing to accomplish and how it's  
6 going to do that.

7 Internally we've been working  
8 through the NOAA planning programing being an  
9 evaluation process to move this forward but  
10 that's not public at this point. We're working  
11 on the 2009 budget now so we're planning several  
12 years out but we have to work through that annual  
13 process to see where we come out at the end.

14 DR. BROMLEY: Jonathan, hack on the  
15 previous slide I think you said in 2008 you're  
16 looking again to nominate sites. My  
17 understanding is that this nomination process  
18 starts at the bottom up. This makes it look  
19 as if someone on top will be nominating, is that  
20 the intent?

21 MR. KELSEY: The intent is that  
22 there would be some kind of identification of

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1 those areas that are potentially eligible and  
2 we would start this consultation between them.

3 So they could come up from bottom up. George  
4 could come to us and say I have three MPAs that  
5 I think should participate.

6 But I think also what we heard from  
7 some folks is that people are busy and they want  
8 the MPA Centers -- which is to identify the areas  
9 and try and pull some of the information together  
10 that would facilitate getting those sites in.

11 DR. BROMLEY: Maybe you want the  
12 wording here to suggest a little bit more of  
13 the interaction between it does look as if okay  
14 now the Feds are going to do this. And the Feds  
15 may, but others may as well if understand this  
16 correctly.

17 MR. KELSEY: No, we let that slip.  
18 Sorry. The Feds do intend to do it but we  
19 just didn't want to tell anybody. No, I'm  
20 kidding.

21 DR. BROMLEY: Be careful, you're  
22 being recorded.

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1                   MR. URAVITCH:    The way the process  
2                   is going to work I mean we've already generated  
3                   working with the states and federal agencies,  
4                   this inventory of sites, and so rather than go  
5                   back and ask them to give us back the information  
6                   that we've already collected from them, at least  
7                   for the first round of existing sites we will  
8                   go forward and review the information on the  
9                   inventory against the criteria, determine which  
10                  sites we believe will meet those criteria and  
11                  then send those back to the states or federal  
12                  agencies for their comments about whether they  
13                  fit or don't fit.

14                  For new sites in the future the  
15                  process may be a bit different and that's  
16                  something we'll have to work out.

17                  DR. BROMLEY:        Are there other  
18                  questions for Jonathan or about the framework  
19                  in general?   Mark?

20                  DR. HIXON:        So what about smaller  
21                  specific comments that we have?   I've jotted  
22                  down little comments on this and do you want

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1 us to hand our copies in at the end of the  
2 meeting?

3 MR. KELSEY: Well, there is a  
4 process so we have these recorded but specific  
5 comments through the Federal Register process  
6 need to come in either through the mechanism  
7 that's identified in the Federal Register.  
8 There's an mpa.comments at NOAA.gov e-mail  
9 address. You can fax in whatever pages you have.

10 You can write, these are my comments, and you  
11 could put them in the fax machine and send them  
12 to us and that would be fine. But we do have  
13 to formally receive them and so even what we've  
14 heard today on the transcript I don't believe  
15 would qualify under that.

16 So we're going to need them formally.

17 Maybe the committee will submit something as  
18 a whole, that would be fine, but also individual  
19 comments we really look forward to those as well.

20 But they do have to come in through the more  
21 formal mechanism in order to be responded to.

22

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1 DR. BROMLEY: I'd like to ask if  
2 the group feels, particularly with respect to  
3 the glossary and some of the terms that we found  
4 awkward, would the committee before we end on  
5 Thursday would we like to make some formal action  
6 and recommendations to the framework on some  
7 of these things because I share the concern that  
8 there's some, how shall we put it, some lack  
9 of clarity in the glossary, ambiguity. Steven?

10 DR. MURRAY: I think it would be  
11 a good use of our time if we do that. I think  
12 we have some reconstructing of the agenda and  
13 how we might see it because this would best be  
14 done perhaps by a subgroup looking at those  
15 issues and coming back with a report.

16 DR. BROMLEY: That's right. So I  
17 would invite all three subcommittees if they  
18 see things in the framework that they find  
19 troublesome, start them early, come back to us  
20 in the middle of the meeting indicating what  
21 it is you're struggling with and working on and  
22 the proposal that you think you might come

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1 forward with, and so at the end of our meeting  
2 we will have a chance, not for a lot of time,  
3 but I think we owe it to this whole process to  
4 offer some input.

5 And again, not that it will be taken  
6 but at least we need to get that in. They don't  
7 have to listen to us, we're an advisory.

8 DR. OGDEN: They have to listen to  
9 us, they don't have to do--

10 DR. BROMLEY: Yes, listen, it  
11 doesn't mean you have to do what we say. You  
12 have to listen to us. Okay. Is that it? Okay.

13  
14 We're ready to move forward to the  
15 next part of the program but before we do I want  
16 to call your attention to something quite nice  
17 in the meeting packet. You probably haven't  
18 looked carefully. "A Brief Personal Guide to  
19 Newport, Oregon and Vicinity" by Mark Hixon.

20 This is a wonderful embellishment  
21 to our normal meeting packet. Mark has told  
22 us all the places to go to eat and drink and

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1 he's called attention to a world class  
2 university to the east and then a minor  
3 university to the south east so if there's  
4 anybody here with web feet who claims to be a  
5 duck you might want to talk to Mark about what  
6 he's referred to as this other university.

7 But at any rate this is wonderful,  
8 Mark, thank you very much. There are maps and  
9 restaurants and pubs and food so that's a nice  
10 touch. Thank you Mark for doing that.

11 Okay. I think we are about the 11:15  
12 point in the agenda and we're going to look at  
13 MPAs, Ecosystems Approaches to Management and  
14 Ocean Zoning and John Ogden is going to introduce  
15 our special guest. John, where are you?

16 DR. OGDEN: Right here.

17 DR. BROMLEY: Okay. And Gail I think  
18 your power point is all loaded.

19 DR. OGDEN: I'm delighted to  
20 introduce to all of you Gail Osherenko. Gail  
21 is a new friend and colleague that I've been  
22 working with along with a large group of other

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1 people and we'll hear about that in a minute.

2 I'll explain that to you.

3 Gail's a researcher at the Marine  
4 Sciences Institute at the University of  
5 California in Santa Barbara. She teaches ocean  
6 and coastal law and policy to undergraduate and  
7 graduate students through the Brent School of  
8 the Environment at UCSC.

9 But most importantly for our  
10 association and I think for what we might take  
11 from Gail's talk is that she is one of the leaders  
12 of the NCEAS the National Center for Ecological  
13 Analysis and Synthesis at the University of  
14 California, Santa Barbara and it's basically  
15 designed to bring science and policy together  
16 on issues of importance to nations vis a vis  
17 the environment.

18 And our study group, supported by  
19 the National Science Foundation at NCEAS is on  
20 the role of marine spacial planning in ecosystem  
21 based management and Gail's giong to summarize  
22 that as part of her talk.

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1           She is a lawyer, she received her  
2 law degree from the University of California  
3 at Davis and she was a legal assistant in the  
4 writing of the California Coastal Act, so she's  
5 had a depth of experience in this, and she's  
6 been a delightful person to work with at NCEAS  
7 so Gail, have I left anything out?

8           MS. OSHERENKO: No. Thank you John  
9 for that nice introduction. We're a little bit  
10 early and that's good because I won't be rushed  
11 and, hopefully, we'll have a chance for a  
12 discussion. Can you all hear me? Am I supposed  
13 to be speaking into a mike or is it just picking  
14 up?

15           DR. BROMLEY: The answer is yes.

16           MS. OSHERENKO: Thank you for  
17 inviting me to talk with you today about ocean  
18 governance.

19           In the 21<sup>st</sup> century new views are  
20 shaping, reshaping rights and rules for the seas  
21 and the oceans are no longer opaque to human  
22 view. Scientists like Barbara Bloch, to the

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1 right there, are tagging and tracking migratory  
2 tuna and billfish and giving us a dynamic three  
3 dimensional view of sea life. And scientists  
4 are probing deep sea vents of canyons and  
5 discovering naming and studying new species.

6 What you see on the left is a  
7 minerals sampling quality and quantity of  
8 minerals that could be extracted from deep sea  
9 vents in the EEZ of.

10 The ability to see and mine the  
11 oceans in new ways also creates new discourses  
12 for ocean governance. And I'm here today to  
13 invite you to think in a new way, a more expanded  
14 way about ocean management and to share with  
15 you the ideas from the NCEAS group.

16 So let me begin by giving you a brief  
17 outline of the talk. I'm going to try to cover  
18 who owns the oceans, maybe take a step back and  
19 most of you may not need this, but there seems  
20 to be a lot of confusion in the literature and  
21 I'm a lawyer so I like to talk about legal things.

22 What's the role of the government, the

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1 diagnosis of the problems, how we in our NCEAS  
2 group diagnose the problems in the oceans, and  
3 some of the solutions which are play spaced  
4 approaches to ecosystem based management and  
5 in particular marine spacial planning and ocean  
6 zoning.

7           And finally I want to briefly just  
8 talk about some of the ways that some  
9 jurisdictions are already beginning this  
10 transition in ecosystem based sea use  
11 management.

12           So starting with who owns the oceans.

13           What is the legal basis for permanently mooring  
14 a floating hotel or a day use tourist facility  
15 on the Great Barrier Reef? Can a private party  
16 own ocean space? Can a government sell, transfer,  
17 give away ocean resources under its  
18 jurisdiction? How does ownership in the sea  
19 differ from ownership on land?

20           When a nation declares a national  
21 monument in the sea, a Marine Protected Area  
22 or an exclusive fishing zone such as our new

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1 marine park near Hawaii, is the government  
2 exercising its rights as an owner of public  
3 property in the sea, or is it only exercising  
4 its authority to regulate ocean resources?

5           These are critically important  
6 questions as the demand for exclusive rights  
7 to ocean resources increases and as pressures  
8 to privatize the sea through deep sea mining,  
9 wind energy, offshore aquaculture arise. We  
10 need to understand what the legal framework is.

11           I got ahead of my slides but you've  
12 probably seen those pictures.

13           So what are property rights and how  
14 do we, as lawyers, think about them?

15           Basically, property rights are  
16 entitlements of ownership to which may be added  
17 the obligations of ownership. And there are  
18 three patterns that are most talked about.  
19 Private property, public property and common  
20 property.

21           And the law is quite different with  
22 regard to navigable water and submerged lands.

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1       In the oceans for the most part title and  
2 ownership belong to a wider community. Ocean  
3 property is common property and the government  
4 manages that property as a trustee for the  
5 citizens or the relevant community.

6               In other words, the government  
7 cannot alienate it as we say, can't sell it,  
8 exchange it or give it away because the  
9 government is not the owner, in essence we are.

10

11               You're probably all familiar with  
12 this chart or another chart like it delineating  
13 some of the boundaries in the sea and if you  
14 focus on the green part, the exclusive economic  
15 zone, the common property owners in this case  
16 are all the citizens of the coastal state, in  
17 our case of the U.S. At least that's what I  
18 would argue would be a correct reading in light  
19 of the law of the sea treaty.

20               In the U.S. the federal government  
21 exercises that authority through the commerce  
22 clause through making rules allocating

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1 resources and managing conflicting uses. So  
2 I've already in a sense begun to answer what  
3 is the role of the government.

4 Now let's look into that role a  
5 little more closely and I could spend 45 minutes  
6 on a lecture on the public trust; I promise you  
7 I won't. But here's a sort of quick summary.

8 Can you read those on the back or shall I read  
9 them? Okay. Good.

10 So basically the government acts as  
11 a trustee or fiduciary on behalf of all the  
12 owners of the common property. And the U.S.  
13 courts have developed this common law doctrine,  
14 the public trust doctrine, to protect our  
15 interest in common property.

16 So these are the basic ideas of  
17 trusteeship arrangements under U.S. law, and  
18 these are the ones that we need to apply to the  
19 EEZ and to create, which is going to require  
20 that we create new trusteeship institutions to  
21 hold, invest and protect the oceans for all  
22 beneficiaries, current and future generations.

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1           Pay particular attention to No. 5.  
2           Public trust doctrine is flexible and its  
3           purpose is to apply change to reflect society's  
4           changing values. So as our visions and the view  
5           of the oceans change with new knowledge, with  
6           Barbara Bloch's work with deep sea vent planning  
7           and so on, our perceptions change, our values  
8           change, and that's why in a sense we're in this  
9           room talking about ecosystem based management  
10          today. Our values and perceptions of what's  
11          important are shifting and our rules and  
12          regulations need to adjust to reflect that.

13                 So some years ago back in 1985 James  
14          Bailey, writing in the Louisiana Law Review,  
15          anticipated wide scale privatization. Quite  
16          possibly by 2010 a map of the United States EEZ  
17          will look more like the plat of a subdivision  
18          than a map of ocean space.

19                 Well his prediction hasn't quite  
20          come true. Instead, the seas are managed through  
21          different types of divisions. On Australia's  
22          Great Barrier Reef and other areas off of

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1 Australia the seas are being zoned to provide  
2 some fully protected and some partially  
3 protected places that are free of extractive  
4 uses. I know you've had talks about the Great  
5 Barrier Reef and know something about that.

6 Maybe you don't know as much about  
7 Belgium but Belgium has developed an extensive  
8 system of marine spacial planning for its part  
9 of the North Sea, and a 2005 study created a  
10 set of alternative scenarios for marine spacial  
11 planning that envisioned the use of exclusive  
12 concession zones to separate incompatible uses.

13  
14 Before we carve up the seas or  
15 conduct marine spacial planning we need to  
16 understand the key distinction between the  
17 exercise of a government authority to make rules  
18 and regulations and the rights and obligations  
19 that flow from property rights.

20 Again, this distinction really can  
21 matter in a time of a lot of increased claims  
22 to ocean space.

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1           So instead of thinking about  
2 governing the oceans through property rights,  
3 which the government does not own, nation states  
4 have to think about allocating through  
5 regulatory authority.

6           Let me go back a minute. So just  
7 to be really clear, the U.S. government owns  
8 considerable public property. I think Max  
9 Peterson knows a lot about this. The U.S. Forest  
10 Service owns what's essentially public land or  
11 manages what is owned as public land, or BLM  
12 has public land and the National Park Service  
13 does. And there the federal government has  
14 both imperium and dominium and Congress under  
15 the property clause of the U.S. Constitution  
16 has the authority to transfer public land to  
17 private ownership, for example through land  
18 exchanges with Alaska native tribes as well as  
19 to grant concessions to private interests.

20           The problem is that scholarly and  
21 lay literature often fail to distinguish between  
22 imperium, the government's right to regulate,

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1 and dominium or ownership which implies property  
2 rights, particularly in the sea. And so we're  
3 finding that private property rights and public  
4 property rights concepts creep into ocean space.

5  
6 Just go to back historically, and  
7 most of you know this too, the battle in the  
8 U.S. over whether the federal government or  
9 state government controlled and had a right to  
10 collect the rents and royalties from oil and  
11 gas took place in the courts and Congress  
12 starting in the `40s, and these two very  
13 important cases are the foundation of our system  
14 today.

15 But what most people don't realize  
16 is that when the U.S. Supreme Court decided in  
17 favor of the federal government and determined  
18 that the federal government had quote "paramount  
19 rights in and power over" the three mile belt  
20 adjacent to the shoreline, they actually had  
21 also rejected the argument made by the Attorney  
22 General of the U.S. saying that the federal

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1 government owned the land as public property.

2 The Supreme Court didn't rest its  
3 decision on that. It rejected that and Justice  
4 Black, writing for the majority, was quite aware  
5 of that. He also wrote in addition to this quote  
6 on the slide, he wrote, "There's no support in  
7 history for the idea that those who settled this  
8 country wanted or claimed a right to block off  
9 the oceans' bottom for private ownership and  
10 use in the extraction of its wealth."

11 So that's all I really want to say,  
12 just as an introduction to the questions of  
13 ownership and the government's role, but I  
14 invite you to read my new paper which is  
15 forthcoming in the University of Oregon's Law  
16 School's Journal, the Journal of Environmental  
17 Law and Litigation.

18 Lawyers do something that other  
19 scientists don't do. We actually put our stuff  
20 online through this web site known as Expresso,  
21 so if you want to read the article in its current  
22 unedited form, it's available. You can just

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1 Google Expresso, the web site will come up and  
2 you can put in my name, property rights, and  
3 you'll find this paper.

4 So to summarize the key points.  
5 There's no need to privatize common property.

6 Privatization isn't the best way to manage  
7 complex ecosystems and it's not the only way.

8 We need to guarantee sufficient security to  
9 those who want to invest in our seas, but we  
10 need also to protect ecosystems. And we can  
11 do that through contract law and through careful  
12 regulation and management.

13 The classic prescription of the  
14 economists, I don't know how many economists  
15 there are here that I'm going to offend today,  
16 their classic prescription for avoiding  
17 economic waste and internalizing benefits and  
18 costs is not the only way to foster new  
19 developments.

20 So let me move to the diagnosis of  
21 the problem. I was pleased to see that in your  
22 packets you were all given a copy of our two-page

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1 article resolving mismatches in U.S. ocean  
2 governance. And basically there we've provided  
3 a diagnosis of the problem, not as one needing  
4 more biophysical science to understand  
5 ecosystems, but rather as a failure of  
6 governance.

7 And I think we're all pretty aware  
8 of the problems in the oceans and we've labeled  
9 them as loss of top predator species, fishing  
10 depth, food -- should be baselines, etc. etc.

11 You know this litany.

12 We see these as the symptoms but not  
13 the underlying problems. And so these are the  
14 three things we identify under the diagnosis  
15 of the problem, and it's really worth in thinking  
16 about solutions coming back again and again are  
17 we solving the problems of fragmentation or  
18 sectoral approaches activity by activity in  
19 ocean management. Spatial mismatches and  
20 temporal mismatches.

21 Not that there are both fine scale  
22 and large scale mismatches. Often, governance

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1 mechanisms have political boundaries that don't  
2 fit the ecosystem. Sometimes they're too large  
3 and sometimes they're too small for an effective  
4 fit.

5 Our governance systems also aren't  
6 able to detect gradual changes in ecosystems  
7 that occur really slowly, and we don't foresee  
8 very rapid ecological shifts or system flips.

9 Why? Because we have these short voting cycles  
10 in terms of office that are usually too short  
11 to create the kind of incentives to plan for  
12 the long term, or even to be concerned about  
13 long term change.

14 So we need to put into place new  
15 governance systems that really address these  
16 problems of scale and time. And our NCEAS group  
17 is studying marine spacial planning and ocean  
18 zoning. We're convinced that they're critical  
19 parts of the toolkit for ecosystem based  
20 management of the oceans.

21 Last month our NCEAS working group  
22 presented these findings at the California and

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1 World Oceans Conference in Long Beach and we  
2 had an opportunity also to speak to California's  
3 oceans and coastal policymakers at a breakfast  
4 meeting that was organized by Compass, and these  
5 next slides are taken from those presentations  
6 and so therefore they reflect the work of the  
7 entire team and not just me.

8 There's Elliott Norris's succinctly  
9 capturing the essence of the problem.

10 But on a more serious note,  
11 Massachusetts, I think somebody here is from  
12 Massachusetts, who's our Massachusetts person?  
13

14 Back to my outline, we're into the  
15 play spaced approaches now. Massachusetts is  
16 embarking on marine spacial planning, they have  
17 a bill in the legislature that's passed one house,  
18 I think the Senate, and will probably move  
19 forward in the House in the coming year, and  
20 they will mandate a sort of three-year full scale  
21 marine spacial planning process.

22 However, Massachusetts isn't

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1 waiting for the legislation and you all don't  
2 need to wait in your area, states and  
3 jurisdictions either. And they've already  
4 begun to go to work on this.

5 Why? Because here's their list of  
6 all the activities taking place running from  
7 commercial and recreational fisheries to  
8 standard -- lining and energy infrastructure,  
9 research and education. Basically, their wires  
10 are more industrialized, many waters off of our  
11 coast, but I think all states have some  
12 industrial --

13 So it's not an unusual list.  
14 Massachusetts is a small state with a short but  
15 wide continental shelf and shallow waters that  
16 extend all the way out to 200 miles offshore.

17 Basically they're a perfect breeding ground  
18 for conflict. A first come first served approach  
19 that characterized ocean use of the 20<sup>th</sup> century  
20 isn't very practical when they're now faced with  
21 large projects. They have proposals for three  
22 wind farms, they have proposals for tidal farm,

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1 tidal wave farm, aquaculture, mining and desal.

2 So that's why they're turning to marine spacial  
3 planning.

4 And I'll come back a little later  
5 exactly how they're going about it.

6 But let's just review a bit the Great  
7 Barrier Reef marine park because it's really  
8 the preeminent example of a huge area off the  
9 coast of Australia where the zoning system has  
10 been in place since the 1980s although it was  
11 completely re-zoned and restructured in 2004.

12 So they have this system of seven  
13 zones and this table shows each of the seven  
14 zones. And then it has a system in the left  
15 column are all the lists of activities and that's  
16 just to help you see a little more clearly, the  
17 system that they use to demarcate activities  
18 that are not permitted in a particular zone.  
19 They're marked with an X. Activities that are  
20 permitted by right in a particular zone and they  
21 will have a checkmark, and activities that have  
22 to get a permit, that could be allowed but only

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1 with a permit and they're marked permit.

2 So it's a simple and organized  
3 system. It's a little more complex than some  
4 might be.

5 Here's an example of a simpler  
6 zoning system. I think John Day who's part of  
7 our group and is a manager in the Great Barrier  
8 Reef marine park really recommends that we try  
9 to get zoning down to about four zones, maybe  
10 six zones, they don't feel that they actually  
11 have the need for as many zones as they  
12 originally created but they left them when they  
13 re-zoned.

14 So basically you start with a no go  
15 zone, just very tiny; then you have the marine  
16 reserves that prohibit extractive and other  
17 harmful uses, and then you have something like  
18 a buffer zone that might adjoin those no go zones,  
19 or something more like our marine park, our  
20 marine conservation areas. And then a general  
21 use zone that allows a much wider range of  
22 activities including shipping and all kinds of

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1 things.

2 So that's just a description of the  
3 basic concept of zoning and the ways that it  
4 has been done.

5 You may know less about how much  
6 marine spacial planning is going on in  
7 jurisdictions all over the world, so I wanted  
8 to include this chart that shows all the places  
9 that are involved in marine spacial planning  
10 or ocean zoning, starting with Australia but  
11 including Canada, Belgium, the Netherlands,  
12 Germany, U.K. and China and also the U.S. Florida  
13 Keys and I'm sure John has told you something  
14 about what they're doing in Florida.

15 Most of these are not  
16 comprehensively zoned. The only one that is  
17 really engaging in a full scale comprehensive  
18 zoning of their entire territorial sea is China.

19 Why are they doing it? Well, they want to  
20 develop it and so the purpose behind that  
21 particular zoning system is to stimulate  
22 economic development and also to separate

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1 incompatible uses.

2 It is not a system of ecosystem based  
3 management so don't be confused, you can have  
4 a zoning system that is an ecosystem based  
5 management and that's not what our group is  
6 recommending or studying.

7 The basic message here is that  
8 Germany, the Netherlands, U.K. and especially  
9 Belgium are far ahead of the U.S. in developing  
10 comprehensive marine spacial planning.

11 A word on terminology. The  
12 Europeans are using EBSUM or ecosystem based  
13 sea use management to describe the overall  
14 system which begins with marine spacial planning  
15 and could lead to ocean zoning.

16 So here's a kind of hierarchical way  
17 of looking at it. These terms are not  
18 interchangeable. You can't sort of say oh marine  
19 spacial planning, ocean zoning as though it's  
20 the same thing. They're not. The framework  
21 is that ecosystem based sea use management is  
22 the goal, the overall over-arching framework,

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1 but to achieve it we need marine spacial planning  
2 and that provides a basis to develop a  
3 comprehensive ocean zoning plan.

4 And under that there will certainly  
5 be use permits, just like what's in existence  
6 today and perhaps reorganized somewhat to fit  
7 within the zoning plan.

8 Don't think we don't have zoning  
9 today. This is just a blown up version of the  
10 chart in our papers as Southern California in  
11 detail. We have lots of zones in place and  
12 just created them in a sector by sector  
13 framework: oil and gas leases, fishing closure  
14 zones, national marine sanctuaries, shipping  
15 lanes, pipelines, cables, they've all been  
16 approved through management schemes activity  
17 by activity without regard, in many cases, to  
18 have ecosystem concerns and certainly without  
19 any overall plan for separating incompatible  
20 uses.

21 Comprehensive zoning probably  
22 wouldn't result in a less complex map, but it

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1 could reduce the conflicts in use and create  
2 a more cohesive plan in which regulatory systems  
3 are a better fit with ecosystem functions.

4 This is the MSP implementation for  
5 Belgium. And note that they began by developing  
6 zones for sand and gravel extraction and for  
7 wind parks and left MPAs to phase 2 of their  
8 process. This is a map. They have a book that  
9 is available in pdf form on the web that shows  
10 their extensive planning process and I think  
11 it's very informative for people who want to  
12 really understand what marine spacial planning  
13 entails and it gives you an idea of the kind  
14 of capacity building that we'll need to do to  
15 merge people in coastal zone management with  
16 ocean planners and land planners to really  
17 create a sort of new discipline of ocean planning  
18 that can take us into an era management suitable  
19 to our needs today.

20 There are a number of benefits of  
21 ecosystem based sea use management and probably  
22 a first step is to recognize and make people

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1 aware of what these benefits are. The private  
2 sectors could have greater certainty in their  
3 investments. We could have reduced conflict  
4 among users and uses. The establishment of MPAs  
5 could be part of this and would reduce the risks  
6 of conflicts with development. We could ensure  
7 room for biodiversity in nature conservation.

8 Can put biodiversity commitments at the heart  
9 of planning and management, promote efficient  
10 use of space and resources, and provide a context  
11 for establishing a network of MPAs.

12 So that brings me to how do we  
13 achieve this transition to ecosystem based sea  
14 use management?

15 Here's a three-step outline just of  
16 the first steps in that transition. We can map  
17 where things are, evaluate their status and  
18 identify critical areas. We need to map human  
19 uses and their interests and we need to create  
20 this integrative planning capacity to consider  
21 the interactions between human uses and  
22 ecosystems.

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1           Of course it's useful to have  
2 legislation mandating agencies to develop MSP  
3 plans and ocean zoning, but most states probably  
4 already have in place a structure through which  
5 these initial steps can be taken. So it's just  
6 a simpler chart to clarify roles. Scientists  
7 gathering the data and analyzing relevant data  
8 and managers identifying the high priority  
9 questions.

10           We need to integrate the biophysical  
11 and socioeconomic data, we need to see where  
12 problems exist in space and time.

13           I think at your last meeting you had  
14 Dr. Lance Morgan here talking with you about  
15 another issue about some ideas for marine  
16 protected areas along the coast from the Bering  
17 Sea to Baja.

18           He is now involved in a project to  
19 try to identify compatible and incompatible uses  
20 and he's been working with an intern from the  
21 School of Environmental Science and Management  
22 all summer developing a matrix or matrices to

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1 help us understand whether there are some  
2 generic answers to what's compatible with what  
3 and what isn't and whether that will help the  
4 planners.

5 So a lot of work is going on on these  
6 tools.

7 Belgium did their own studies and  
8 surveys. They surveyed a lot of interest groups  
9 and stakeholders to try to get a fix on answers  
10 to those questions about what's compatible and  
11 what's not.

12 Some people are really looking at  
13 cumulative impact.

14 And finally we need to gather the  
15 information for effective decision making.

16 So I wanted to come back to  
17 Massachusetts and just give you a little picture  
18 of what they're doing to get started even before  
19 they have the legislation in place. They do  
20 have a mandate from their governor to begin to  
21 initiate marine spacial planning

22 I've kind of lost my place here.

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1 Okay.

2 So Massachusetts is leading the way  
3 by developing these high resolution sea floor  
4 habitat maps and once they're completed, and  
5 I understand they're almost done, the  
6 Commonwealth will have a complete up to date  
7 set of maps of the sea floor.

8 The undersea landscape includes a  
9 diversity of habitats, sand, kelp, kelp forests,  
10 sponge fields, cobble and gravel, mud, grass  
11 meadows, boulders and reefs. I think this is  
12 actually quite interesting because it's quite  
13 similar to California's process under the MLPA  
14 for mapping MPAs in the central coast, so this  
15 will resonate with those of you who are familiar  
16 and who have been following that process.

17 Beyond that, Massachusetts has asked  
18 the industry and experts what kind of sea floor  
19 or water depths are needed for different  
20 technologies. Where can wind farms,  
21 anticipating where the technology will go ten  
22 years from now, where can they go? Where should

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1 they go? Given reasonably foreseeable  
2 technology, what parts of the map should be set  
3 aside as potential wind farm sites or tidal  
4 energy sites?

5 They're not considering detailed  
6 economic cost benefit analyses to determine  
7 final proposed sites for investment, they're  
8 just looking at where projects could go, and  
9 they're especially looking in deep water.

10 They're also collecting a lot of  
11 human use data, everything from water taxi stops  
12 and ferry routes to kayak launch areas and dredge  
13 material disposal, sea ports, whale sightings,  
14 whale watching, whale migration routes, desal  
15 facilities, recreational diving, all of these  
16 human uses are getting mapped on top of the  
17 biophysical data.

18 So this is just a summary of all of  
19 the initiatives, or probably not all but most  
20 of the initiatives, that are going on in  
21 Massachusetts as part of this larger process  
22 to lead to marine spacial planning.

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1           In addition, the coastal zone  
2 management office has conducted a survey of  
3 public attitudes and has an economic evaluation  
4 of marine resources. And this winter as you  
5 see down here towards the bottom of  
6 Massachusetts ocean partnership fund, this is  
7 another very important aspect of marine spacial  
8 planning. The opportunities for public/private  
9 partnerships which we see in spades in  
10 California I don't think we would be happing  
11 marine protected areas in the central coast of  
12 California without these public/private  
13 partnerships, especially with funding agencies.

14  
15           And Massachusetts has its own ocean  
16 partnership fund and they are planning with the  
17 coastal zone management office and ocean zoning  
18 workshop that will look at spacial zoning  
19 options.

20           And I want to end with where we all  
21 should always begin in doing ecosystem based  
22 management and marine spacial planning with

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1 stakeholder participation. I know you all know  
2 this but stakeholders are critical. Without  
3 their involvement we're not likely to see the  
4 creation of more MPAs, let alone implementation.

5 They need to be involved from the  
6 outset and in all stages of the creation of a  
7 plan, implementation, monitoring, enforcement,  
8 evaluation and adaptation.

9 But they can be unwieldy. It's  
10 critical to create a process where stakeholder  
11 involvement is perceived as fair and it's really  
12 important to find a way of being sure that the  
13 scientists aren't segregated from the  
14 stakeholders or the stakeholders from the  
15 scientists.

16 I think some time during your  
17 meeting you're going to have a presentation  
18 about the California process and hopefully you  
19 will ask them some hard questions about how that  
20 worked out for the central coast of California,  
21 because I tell you from the outset they have  
22 not built a bridge between the science panel

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1 and the stakeholder panel. And they were left  
2 kind of scrambling.

3 And I think that the fact that the  
4 process has gone as far as it's gotten is a  
5 tribute to identifying that as a serious problem  
6 early on and trying to build those bridges, be  
7 sure stakeholders came to the science meetings  
8 and some science person always came to the  
9 stakeholder meetings.

10 I'm not sure it's the best model and  
11 it's certainly not the only model, but it's a  
12 very important part of these processes.

13 And I want to leave you with a few  
14 closing quotations from members of our NCEAS  
15 group. Thank you for listening and I'd be happy  
16 to answer questions and I'm sure John would help  
17 me.

18 (Applause.)

19 DR. BROMLEY: Thank you Gail. We  
20 have 20 minutes or so so let's do it. Yes?

21 DR. HALSEY: Gail, thank you very  
22 much for your very interesting talk. Could you

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1 contrast EBSUM with EBS?

2 MS. OSHERENKO: Well, I think  
3 ecosystem based management was sort of at the  
4 top of that hierarchical chart. I mean it's  
5 the goal we're all trying to achieve. It's about  
6 ecosystems. It's trying to say we need a  
7 different focus of our management.

8 And EBSUM is just sea use planning.

9 I mean in others sea use management, SUM, is  
10 driven by ecosystem based management principles.

11  
12 Maybe it's not -- let me put that  
13 a little more clearly. What we're talking about  
14 today you all have in your packets, I don't  
15 remember exactly what it was in but you have  
16 part of the definition of ecosystem based  
17 management put together by the science team.

18 DR. OGDEN: Steering Group 3 did  
19 that.

20 MS. OSHERENKO: Steering Group 3.

21 DR. OGDEN: Based on the scientists'  
22 consensus statement of use of the base

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1 management which we have used, which the  
2 scientists group in this panel has used  
3 consistently.

4 DR. BROMLEY: Subcommittee 3.

5 MS. ESHERENKO: So one of the things  
6 that that statement says is that ecosystem based  
7 management is play space management. It's based  
8 on ecosystems and they occur in places, they  
9 occur in space and time.

10 So what I've been talking about is  
11 part of the tool box. I don't think it's the  
12 whole toolbox. I haven't talked here about all  
13 of the aspects of ecosystem based management.

14 I've really focused on the play space ones and,  
15 in particular, the larger framework of marine  
16 spacial planning and ocean zoning within which  
17 MPAs are very important. In some jurisdictions  
18 I think they're seen as the building blocks of  
19 a system.

20 In other places like Massachusetts  
21 where there's such resistance to MPAs, the MPA  
22 discussion is off the table, but marine spacial

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1 planning is very much on the table.

2 And so the timing of what happens  
3 first and where is different.

4 DR. MURRAY: First back to the  
5 examples you gave from Massachusetts. I was  
6 at your California world ocean symposium and  
7 I heard a person from Massachusetts speak and  
8 she kept intermixing the words ecosystem based  
9 management with what they were doing in  
10 Massachusetts. But as you pointed out, they  
11 have given at this point in time no consideration  
12 to MPAs or the natural biodiversity elements  
13 in that system from what I can see based on what  
14 was presented.

15 So is the Massachusetts program, is  
16 that really addressing ecosystem based  
17 management. Your slide said that to transition  
18 to ecosystem based management you want to first  
19 map where things are and evaluate their status  
20 and identify critical areas and map human use  
21 and interest and then look for developing an  
22 integrated plan.

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1           But if you don't have in your maps  
2 from the get go areas of biodiversity, areas  
3 of habitats that support rich natural resources  
4 and you don't identify those as critical areas,  
5 how can you be doing ecosystem based management?

6           MS. OSHERENKO: I can't imagine that  
7 you could. I mean I think it's a really good  
8 point. But the fact is that they have done this  
9 mapping of their sea floor and delineated where  
10 the different types of habitat are.

11           So presumably in a spacial planning  
12 system they will be looking to be sure that  
13 there's some representative samples. I'm not  
14 sure what's going on. I think that probably  
15 they're bringing this in somehow through the  
16 back door but they're not doing it with a focus  
17 on constraining fisheries. They're trying to  
18 solve serious problems with dredging and for  
19 new kinds of uses. And let me let Ellen follow  
20 up.

21           MS. GOETHEL: I think -- I know that  
22 the reason they're discussing any type of ocean

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1 zoning and they're not calling it that is because  
2 of the LNGs and the wind farms.

3 The idea was to limit those states  
4 ones to be able to say where they're going to  
5 go. So it has nothing to do with fisheries or  
6 marine protected areas, it has to do with power  
7 and who's got it and where those things are  
8 eventually going to be placed.

9 MS. OSHERENKO: But hopefully  
10 they'll be sensitive in placing those to areas  
11 that should not have those activities in them,  
12 although it may be that some of those activities  
13 are compatible.

14 MS. GOETHEL: I think they're  
15 dealing more with politics here though than with  
16 the environment.

17 DR. BROMLEY: We have lots of  
18 questions on that side there. Just go down the  
19 list.

20 DR. CRUICKSHANK: Thank you very  
21 much for a very interesting talk and what you're  
22 describing basically what you going into any

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1 kind of development of sea beds, good  
2 characterization of the sea beds and then --

3 How would you possibly indicate or  
4 produce this management method into an existing  
5 industry such as the oil and gas industry in  
6 the developed Gulf of Mexico?

7 MS. OSHERENKO: John, help me out  
8 here.

9 DR. OGDEN: Well it's going to be  
10 a system of catch up. I mean it would have to  
11 be factored into this summary of geospatial  
12 analysis of marine ecosystems and human uses  
13 that would be factored in. These are oil leased  
14 areas, there are certain legalities that apply  
15 and, you know, in an ideal world I suppose we  
16 might have started out in a different way but  
17 we have what we have.

18 The point is to try to  
19 comprehensively assemble this information so  
20 that you have some idea of what it is you've  
21 got and where the critical areas are and what  
22 are the steps in some orderly sequence that ought

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1 to be taken.

2 DR. CHATWIN: Thank you for a really  
3 interesting presentation. I have two questions.

4 One, we are the MPA advisory committee and your  
5 presentation didn't really touch on MPAs. You  
6 mentioned MPAs I think once in your talk.

7 I'm concerned because the zoning,  
8 so my first question is the relationship between  
9 the zoning and MPAs. And in your examples you  
10 provided a mixed bag really. The Australian  
11 Barrier Reef, that's one MPA that has been zoned  
12 and re-zoned. And then in the Netherlands and  
13 Belgium and even the Massachusetts example,  
14 we're talking about a body of water under  
15 national or state jurisdiction that's been zoned  
16 which is not an MPA.

17 So I think it would be helpful for  
18 us, or at least for me, to understand how this  
19 working group has discussed or has come to  
20 clarity on this issue of how MPAs are related  
21 to re-zoning. Because when you mention the four  
22 types, the no go, the reserve, the buffer, the

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1 general use, I could see no go or buffer being  
2 considered MPAs and in general use just being  
3 considered --

4 It's not clear and I wonder if you  
5 could provide some clarity. And then I have  
6 a second question.

7 MS. OSHERENKO: Good question. I  
8 mean you have to ask John Ogden why I was invited  
9 here to come talk to you about much broader than  
10 how you may see your role.

11 I don't think we're going to be able  
12 to establish MPAs in highly industrialized areas  
13 outside of a larger marine spacial planning  
14 scheme, which might or might not include ocean  
15 zoning.

16 I'm just waiting to see California  
17 tackle Southern California.

18 DR. CHATWIN: I think the principles  
19 that you've raised are really applicable to our  
20 work. There's no doubt about that. So I just  
21 wondered if you and the working group had tackled  
22 this very difficult problem because in a divers

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1 group like this one of the first things that  
2 we work on was trying to clarify terms. And  
3 there is a number of new terms that we put in  
4 there, some of which apply directly, some of  
5 which don't.

6 And I just wondered if you guys had  
7 had that discussion?

8 MS. OSHERENKO: I mean I would just  
9 listening to the little bit that I listened to  
10 this morning, I'm wanting the discussion to be  
11 much broader, you know, I'm wanting us to really  
12 begin to look at our ocean system as a whole  
13 and really ask where should the MPAs be and what  
14 kind of MPAs should they be?

15 But I don't think we can do that  
16 outside of the context of looking at all the  
17 other uses and trying to plan ahead for what's  
18 coming down the pike, because what's coming down  
19 the pike is pretty heavy duty, especially in  
20 some areas.

21 I was at earlier this year a meeting  
22 of a committee like this, a Federal Advisory

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1 Committee -- management service. So they have  
2 a process going on which my understanding is  
3 that they now have a draft programmatic  
4 environmental impact statement or programmatic  
5 draft environmental impact statement for  
6 replacement of renewable energy in the oceans  
7 and conversion of existing but no longer needed  
8 platforms.

9 Now how do you do that? How do you  
10 think about that completely outside of a larger  
11 framework of marine spacial planning? How come  
12 your group isn't meeting jointly with them?  
13 And these are the kinds of questions I'd want  
14 --

15 DR. CHATWIN: Then the second  
16 question I had if I may, it's just from those  
17 examples that you listed, and the statements  
18 in the end really brought that home to me, are  
19 there any indications that those systems are  
20 more advanced than in the U.S. in our current  
21 situation in terms of spacial planning and  
22 spacial management?

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1                   Are there any indicators that the  
2                   ecosystems and the marine health is doing better  
3                   because of that? Are there any studies like  
4                   that?

5                   MS. OSHERENKO: Let's say there's  
6                   probably no studies because it's way too early  
7                   to get any kind of studies. You should have  
8                   some results out of Great Barrier Reef.

9                   DR. OGDEN: It's gotten worse and  
10                  that's why they re-zoned.

11                  MS. OSHERENKO: Yes, and now they've  
12                  moved from 5 percent in what we would call marine  
13                  reserve status to something about 30 percent.

14                  DR. OGDEN: 3 percent to 33.

15                  MS. OSHERENKO: But in Belgium it  
16                  hasn't really, it's just in the process of being  
17                  implemented and most of those processes in  
18                  Europe are really driven by the wind farms and  
19                  renewables and looking to put airports out in  
20                  the sea and really intensive human use of the  
21                  sea that is conflicting and there's a need to  
22                  try to understand the system and planning so

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1 it's way too early to really say oh yes this  
2 is -- I mean I'm not telling you this is going  
3 to save oceans. I just think that we need to  
4 get serious about managing our oceans more.

5 DR. AGARDY: Just a comment --

6 MS. OSHERENKO: I'd like to know  
7 all that stuff about ownership --

8 DR. AGARDY: I know, well we'll get  
9 to that, I'm not going to bring that one up.

10 But I just have a comment about the  
11 Belgian process because I took part in a small  
12 marginalized piece of that which had to do with  
13 the evaluation of the marine environment and  
14 recognize that Belgium, of course, the coastline  
15 is about 15 miles long or something. I mean  
16 it's very, very small. Easily dealt with bit  
17 of water.

18 But the interesting thing about  
19 Belgium I think is they have a culture of  
20 understanding the concept of valuation, and by  
21 this I don't mean economic valuation, so don't  
22 get all hot under the collar. Rather the idea

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1 of identifying ecologically critical areas and  
2 kind of giving rank to different areas according  
3 to their value to humans and to the whole  
4 ecosystem is completely understood by the  
5 Belgian public. And it's something they've been  
6 practicing on land for a long time so they have  
7 these periodically re-done what they call  
8 evaluation maps of their lands.

9 And they convened a meeting a few  
10 years ago to get marine people to focus on  
11 whether you could translate that process into  
12 the marine environment, and the end result of  
13 that workshop was essentially a zoning, well  
14 it wasn't actually a zoning plan, it was what  
15 would constitute the basis for a future zoning  
16 plan of their ocean space.

17 So I think a lot of what goes into  
18 whether these things are successful is the kind  
19 of mindset of the public and the extent to which  
20 they're willing to look at historical precedents  
21 in spacial planning and kind of tweak them and  
22 adapt them to new environments so to speak.

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1           But I have a question for you that  
2 you might think is a little bit esoteric and  
3 I don't want to speak for Bonnie because she's  
4 not here and I'm not a sociologist, but Bonnie  
5 has written in the past that ecosystem based  
6 management can be thought of in a kind of spacial  
7 physical sense, you know, you define the  
8 ecosystem and you try and cope with what you  
9 know about that ecosystem and how you can best  
10 manage it.

11           She also says that it's important  
12 to think about it in another way, which is a  
13 non-physical sense, which is trying to tie  
14 together institutions and human beings in the  
15 management process.

16           And the way that that is not physical  
17 is that it's not tied to any particular immutable  
18 space, rather it's this very fluid, no pun  
19 intended, fluid kind of system where what you're  
20 trying to manage might be one part a smaller  
21 space and one part a bigger space, it might be  
22 a global space if you're talking about global

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1 institutions, it might be a very small space  
2 that's related to a certain kind of user group  
3 using the resources in a specific way.

4 So my question is whether you think  
5 that there's a way to get an ecosystem based  
6 management that doesn't involve putting fixed  
7 lines on maps, or maybe doesn't only involve  
8 that, but also involves this idea of trying to  
9 link institutions and people together as well.

10 MS. OSHERENKO: Yes, absolutely.  
11 I suspect if she were here we would agree on  
12 a lot. I mean I think what's likely to happen  
13 is that you see efforts on a small scale, for  
14 example in Moro Bay a mix of public, private,  
15 stakeholders, all kinds of people are involved  
16 in trying to do an ecosystem based management  
17 plan for Moro Bay which is a small bay in Central  
18 California.

19 As far as I know they're not using  
20 the tools of marine spacial planning. I don't  
21 know whether as they evolve along they will see  
22 that that would be useful or whether they won't.

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I think we'll probably see something from Moro Bay to San Francisco Bay and you'll see PCDC -- Conservation Development --

DR. BROMLEY: Commission.

MS. OSHERENKO: Commission, begin to start thinking well could we use these tools of marine spacial planning to involve all the stakeholders and public and private entities in really thinking through better spacial management there.

I think some of this will result in and should result in some zonation within which but a lot of it will be built with other mechanisms. And yes, absolutely the institutions have to fit, they have to fit the ecosystems and it doesn't necessarily mean drawing lines. Ecosystems have very leaky boundaries, that's what Larry Crowder says.

DR. BROMLEY: We have a few more minutes.

MR. LAPOINTE: Well I'm not sure

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1 if these are questions or observations. I find  
2 it interesting, in Maine we've tried to do  
3 something called Bay Management which is a local  
4 efforts that's in infancy and when people bring  
5 up examples I find that the implementation of  
6 zoning processes in a parliamentary system is  
7 easier than our sociopolitical system.

8 You know in Canada what my  
9 counterparts have, the federal counterparts  
10 have, it says the Minister has absolute  
11 authority over the management of the fisheries  
12 and they do things in a way that we would say  
13 was arbitrary and --

14 DR. BROMLEY: Capricious is the word.

15 Arbitrary and capricious.

16 MR. LAPOINTE: Thank you. And so  
17 I think that's an important distinction for  
18 people to look at or to recognize when they look  
19 at examples.

20 My other observation is that when  
21 Massachusetts is doing their ocean zoning  
22 process and my hat's off to them for getting

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1 as far as they do, if they leave off things like  
2 fishing they're doing SUM spacial use management,  
3 or whatever we call it, and not EBSUM because  
4 they're leaving off components that they have  
5 to.

6 And so for the integration of that  
7 kind of effort with our process, if you do leave  
8 off activities because they're too hard to deal  
9 with, you're going to have to come back to them  
10 in this evolutionary process sooner or later  
11 anyway.

12 MR. PETERSON: I think that's a real  
13 good presentation and I think it does have a  
14 lot to do with what we're talking about because  
15 spacial based planning is the oldest planning  
16 that we know about. And originally we thought  
17 we'd just separate everything so there's no  
18 conflict and that works if you've got lots of  
19 land and not very many people.

20 But people are drawn to the ocean  
21 and rivers and so on so my question to you is  
22 we also have things that don't really

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1 necessarily fit a particular place, for example,  
2 migratory birds may have one or two stopping  
3 places, and the whales that we saw yesterday  
4 along the coast just have a few stopping places.

5  
6 So one of the questions is how in  
7 this so-called play space management do we  
8 envision things that come in and out that may  
9 be actually critical to their life cycle? To  
10 me very important that the local people may not  
11 be as interested in. That's one of the issues  
12 I see.

13 The second issue is I look at this  
14 spacial -- it may tell you that because of  
15 people's tendency to want to live on the ocean  
16 and have all these things that go on in the ocean  
17 that that may not be the best place for things  
18 like marine protected areas. There may be so  
19 many conflicts that we're just not likely to  
20 have success for marine protected areas in some  
21 highly industrialized areas. We may have to  
22 look elsewhere. And we base that on some of

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1 the land based maps.

2           Anyway, I'd like to have a copy of  
3 your presentation, I thought it was great. Thank  
4 you.

5           MS. OSHERENKO: No problem.

6           MR. BEEKER: One of the things that  
7 we're supposed to be considering in our  
8 deliberations here are the presence of  
9 insignificance of cultural resources. I'd be  
10 particularly interested in the Belgian  
11 situation since I've got to believe that their  
12 coastline is carpeted with cultural resources,  
13 some of national historical significance, some  
14 of them war graves, some of them potentially  
15 environmental disasters. I heard no mention  
16 of that. Did they consider it? If so, how have  
17 they gone about surveying it because there's  
18 going to be tens of thousands of resources there.

19           MS. OSHERENKO: They considered  
20 everything. I just didn't highlight it, but  
21 they have a map of their little area of mapping  
22 places where all these things are. So they've

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1 been trying to put it all into the maps, and  
2 I'm sure it's very complicated.

3 MR. BENDICK: It seems like there's  
4 a really big difference between zoning  
5 activities, what should happen within a marine  
6 protected area like the Great Barrier Reef and  
7 zoning all activities outside a marine protected  
8 area.

9 And zoning on land has been pretty  
10 much a failure to protect ecological resources  
11 and there are a lot of reasons for that. And  
12 I think it would be interesting to look at when  
13 you go about zoning, not activities within a  
14 marine park, but all activities whether the same  
15 reasons that make zoning such a poor tool for  
16 protecting ecological resources on land an  
17 uncertain tool about protecting ecological  
18 resources in the water.

19 MS. OSHERENKO: Good questions.

20 DR. BROMLEY: Short answer, too.

21 MS. OSHERENKO: Okay. I have to  
22 give a short answer so you all can go to lunch.

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1           I mean I don't think the goal of  
2 zoning our land was protecting ecological  
3 resources. It was separating incompatible uses  
4 so that I didn't have to live next door to a  
5 smelly leather factory or a nuclear power plant.

6           And similarly it has that function in the  
7 oceans.

8           Hopefully, we would start early  
9 enough, we don't have the problem of private  
10 property and we can work out spacial  
11 arrangements that include serious protection  
12 of marine ecosystems and special places as Max  
13 is pointing out.

14           I mean we need to put some protection  
15 around those hot spots where the tunas all go  
16 to feed. And thanks to the work of a lot of  
17 people pegging animals and doing aerial surveys  
18 and all the rest, we know what their migratory  
19 paths are. We can see now that those tuna make  
20 a beeline from the northwest coast of the U.S.  
21 straight over to a particular sea off of Japan  
22 or Korea. We ought to be protecting that area

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1 or at least looking to see that it's not over  
2 fished.

3 And at the same time, you know, we  
4 can think about more flexible zoning tools like  
5 floating zones where during the migratory period  
6 you keep certain kinds of activities out just  
7 as we do with whales, we try to keep major  
8 shipping activity away from whales when they're  
9 clustered in particular areas.

10 We recognize the Z word gives people  
11 problems because their experience on land has  
12 not been entirely positive but pay attention  
13 to the fact that there are urban boundaries and  
14 we do have some agricultural areas left that  
15 aren't chopped up with houses and we do have  
16 some separation of activities and places to live  
17 and recreate that are separate from  
18 industrialized zones. And that's what we're  
19 going to need for the oceans.

20 DR. BROMLEY: Good. I'm going to  
21 have to call it off here. Thank you very much.

22 I mean the interest Gail obviously there are

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1 so many questions --

2 (Applause.)

3 Thank you so much. One brief  
4 announcement. We do not want food to be carried  
5 across the aquarium and we have set it up that  
6 we are to have a working lunch but we don't want  
7 people to get their food and then cross over  
8 to the café where one of the groups would meet.

9 So the announcement is let's eat our  
10 lunch here as quickly as you can if you want  
11 to. One group gets to go where Lauren?

12 MS. WENZEL: Well there are two  
13 groups in this room and one group in the café  
14 and if one of the groups in this room wants to  
15 go outside they can do that.

16 DR. BROMLEY: Right. Group 1 goes  
17 to the café and the other two stay here. So  
18 get your lunch, eat it here and then we'll go.

19 Then basically we need you back here at 3  
20 o'clock and we expect you to work between now  
21 and then.

22 (BREAK FOR LUNCH.)

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1 DR. BROMLEY: Before we get started.

2 With the profusion of microphones all of these  
3 discussions that go on around the table are  
4 picked up by the sound system and complicate  
5 life for the reporter, so if we could have just  
6 one conversation going in the room it helps on  
7 several fronts.

8 Brian Melzian wants to take a minute  
9 or so to announced some new integrated ocean  
10 observing system. Brian, go ahead.

11 DR. MELZIAN: Thank you. This is  
12 a follow up from our last meeting. As some of  
13 you know I showed and displayed a copy of the  
14 first integration ocean observing system report  
15 which I sent as a pdf file to everyone and I  
16 think some of you got that file.

17 I've got four copies, hard copies  
18 of this document, so you guys get first shot.

19 If there's any folks that actually want a hard  
20 copy please let me know because these are one  
21 of those government documents, we have a lot  
22 of them when they're first printed and then five

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1 or ten years from now they're impossible to find.

2

3 But also lastly on the table outside  
4 displaying two copies of a newsletter, a fairly  
5 new newsletter produced by ocean.usoffice. It's  
6 called Ocean Readers and the display will be  
7 the August issue and also September issue. And  
8 the August issue is germane to our deliberations  
9 because it describes the central and northern  
10 California ocean observing system regional  
11 associations which include part of Oregon and  
12 California and by default needs to include the  
13 stakeholders at the local and state level and  
14 federal level.

15 So there's some descriptions about  
16 this regional association for central  
17 California, and the other newsletter has a  
18 description for the southern California also  
19 ocean observing system, all of which need to  
20 develop governance and business plans. So  
21 there's some potential models for some of our  
22 deliberations.

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1                   So these are on display on the table,  
2 if you want a copy of the four development plans  
3 that I brought to this meeting please let me  
4 know.

5                   DR. BROMLEY:    Thank you very much.

6                   Charlie, do you have a handout for us?

7                   MR. WAHLE:     Yes, we were talking  
8 earlier about some of the results that we found  
9 from the inventory of MMAs. Lauren is passing  
10 around while we're talking brochures and fax  
11 sheet that give you a sense of the pattern that  
12 we've seen nationally and with a little bit of  
13 more detail on the West Coast. And then we'll  
14 describe that West Coast picture to you on  
15 Thursday.

16                   This will give you a picture of where  
17 we're going and what we're finding as we look  
18 at the box with all the inventories.

19                   DR. BROMLEY:     Good. Thank you.  
20 So they're coming around. One other quick thing  
21 I want to do, in relation to the elections on  
22 Thursday it became important to some people to

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1 understand the terms. You know we now have terms.

2 So let me just go down the list here Joe and  
3 Lauren have given me an expiration list, so I'm  
4 just going to read the names of those who have  
5 one year left on the committee, meaning that  
6 you potentially would have two more meetings  
7 because we'll meet in April and then probably  
8 would meet in October of `07 and our terms expire  
9 end of October a year from now or the end of  
10 October three years from now.

11 So what I'm going to do is read the  
12 names of those whose term expires at the end  
13 of October 2007. Agardy, Bendick, Cruickshank,  
14 Gilman, Halsey, McKay, Murray, Peau, Peterson,  
15 Suman and Williams.

16 If I didn't call your name that means  
17 you are with us through `09, okay, the end of  
18 October of `09. Would you like me to read those  
19 names? Okay. More slowly? I'll go through  
20 the first list again. The names I'm about to  
21 read would expire the end of October `07. Agardy,  
22 Bendick, Cruickshank, Gilman, Halsey, McKay,

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1 Murray, Peau, Peterson, Suman and Williams.

2 Now I'll read the names of those who  
3 will be on the committee. Okay. The end of  
4 October of `09, Beeker, Benton, Bromley, Chatwin,  
5 Goethel, Heinemann, Hixon, Lapointe, Ogden,  
6 O'Halloran, Pereyra, Radonski, Ray, Woods and  
7 Zales. So those people have three more years.  
8 The other group has one more year. Is that clear?

9  
10 How did this get determined?

11 MS. WENZEL: I could think of all  
12 kinds of smart aleck remarks but I won't. What  
13 we tried to do was make sure that we retained  
14 the overall interest group and geographic  
15 balance among those who are staying for two years  
16 and for four years.

17 MR. URAVITCH: And let me add the  
18 reason this is as it appears was through an error  
19 that was made when the first committee was  
20 appointed and then didn't sit and we went through  
21 a process of appointing new committee.

22 The first charter actually had

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1 staggered terms in it, but when the second  
2 charter went through for review by the attorneys,  
3 the attorneys thought oh well they already have  
4 staggered terms so they dropped the clause from  
5 the charter. So as a result we've had to  
6 basically stagger the terms of the people that  
7 were left on the committee to get into a two  
8 year on two year off cycle.

9 So in future all new appointments  
10 will be for four years with no renewal. And  
11 we are now in the process of seeking people to  
12 replace the folks whose terms expire at the end  
13 of October, and we're doing that now because  
14 it's going to take close to that amount of time  
15 to go through the background check clearance  
16 process, etc. etc. So hence what appears to  
17 be an early start to the process but it's not.

18  
19 DR. BROMLEY: Okay. So if any of  
20 you are unclear about which category you fall  
21 in, call out your name and I'll be happy to  
22 clarify it. Otherwise, Lauren has the list and

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1 yuo can come and check it. Okay?

2 All right. Wonderful. Steve, are  
3 you ready to go ahead? So we're at the three  
4 o'clock point and we're going to have a report  
5 on ecosystem approaches to management from  
6 Subcommittee 3. Shall we think of it as work  
7 product, Steve, with the idea that you would  
8 like ultimate approval at this meeting of it  
9 for submission to the MPA Center or some sort  
10 of status as a final work product. Is that  
11 correct? You take it over Steve.

12 DR. MURRAY: Thank you folks. I'm  
13 speaking here representing Subcommittee 3 and  
14 what we have done is we've been working on a  
15 short targeted paper that is designed to provide  
16 clarification of the relationship between MPAs  
17 and ecosystem based management. So in your  
18 packets you have this particular document with  
19 numbered lines so if you'll all get that out.

20  
21 It says Marine Protected Areas:  
22 Essential Tools for an Ecosystem Approach to

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1 Management.

2 This was also sent to you all  
3 electronically several days ago with a short  
4 message from me and sent to you by Lauren and  
5 indicating we were going to bring that forward  
6 to whole group.

7 So let me review a little bit about  
8 where we are and how we got to this point and  
9 then I'd like to ask Charlie to say a few words  
10 about the MPA Center and the perceived needs  
11 and uses of this particular document. And then  
12 we'll come back and say a few words about how  
13 we'd like to proceed as a group as we work from  
14 here forward.

15 So we go back to our meeting in Texas,  
16 the Corpus Christi meeting, it had some  
17 discussions about what kind of work products  
18 should we attempt to produce. Subcommittee 3  
19 is the subcommittee on Natural and Social  
20 Sciences, and so we reported back to you at that  
21 meeting that we were going to attempt to produce  
22 smaller, more targeted work products and that

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1 we had prioritized as our first effort in this  
2 regard a document that would outline or  
3 articulate the relationship between MPAs and  
4 ecosystem based management.

5           And so we left Corpus Christi with  
6 an assignment to go to work on that. As a  
7 subcommittee we went to work on that. Mark Hixon  
8 produced a really strong draft, first draft,  
9 and then members of our subcommittee looked at  
10 that, worked over it, provided revisions, edits  
11 and two conference calls generated what you have  
12 before you which we believe, and we just verified  
13 that this morning, represents our best effort  
14 to provide you with a product that we are  
15 offering for your approval.

16           We'd like to know what you'd like  
17 to do with it of course at this particular point  
18 in time, and if we can approve it prior to leaving  
19 this meeting that would be good because we only  
20 are able to act on these kinds of products when  
21 we have a publicly held meeting, which would  
22 mean that if we were unable to come to agreement

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1 that this is a satisfactory document for the  
2 group, then we would not be able to formally  
3 endorse that until April.

4 So one of the reasons why we tackled  
5 this particular topic was because of the large  
6 number of conversations that have been going  
7 on that have involved EBM, Ecosystem Based  
8 Management, and then our charge which is meant  
9 to have a series of conversations involving  
10 marine protected areas.

11 And so if you're looking for  
12 essentially the rationale for this document it's  
13 contained in the first paragraph of the document.

14  
15 Now with that I'd like to turn the  
16 microphone over to have Charlie come forward  
17 and talk about Charlie you were going to say  
18 some words about the use of this document and  
19 the need for it at this point in time.

20 MR. WAHLE: Sure. Thanks Steve.  
21 Steve laid it out very well I think. As you  
22 all know, and we heard from Gail earlier this

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1 morning, the growing interest in the ecosystem  
2 approach to management. And they're  
3 fundamentally similar in that they're spacial  
4 and involve the same types of information.

5 Our purpose in asking you all to  
6 produce this was just to get a statement from  
7 a group like you that makes that point in a simple  
8 way, and it says ecosystem approaches to  
9 management and MPAs are consistent, largely  
10 overlapping, very compatible and should be  
11 pursued along the same lines. And that will  
12 be very useful within the agency as well as  
13 combining some of the growing and the academic  
14 interests of the connections between these two  
15 approaches. And I think this document does the  
16 trick.

17 DR. MURRAY: Okay. So what we'd  
18 like to do I think is open up the conversation  
19 for receiving input on this and sort of  
20 statements of where we are from the members of  
21 the group.

22 I think that what we should be

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1 looking for at this point in time are issues  
2 of substance in the document. If there are  
3 comments and word replacements I think we can  
4 collect those from you at the end of the  
5 discussion here and bring back those into a  
6 revitalized document.

7 But I think that what we should be  
8 looking for some are some comments of substance  
9 and what your feelings are because, of course,  
10 what we're doing is we're offering the document  
11 up for the group. So we should go from there.

12 Who would like to be first?

13 DR. BROMLEY: Steve, I hope this  
14 isn't more than just a minor wording thing.  
15 On line 16 I believe it's a legal issue here,  
16 you said that your exclusive economic zone; my  
17 understanding is that that would exclude state  
18 waters so I think you want to check with some  
19 lawyers here because you're talking about from  
20 sort of high water mark out to the 200 mile zone.

21 And it seems to me you excluded state waters.

22 DR. CRUICKSHANK: Because the

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1 three-mile limit is not part of the U.S.  
2 Exclusive Economic Zone I think.

3 DR. BROMLEY: State waters plus the  
4 U.S. EEZ or something. Others in the room know  
5 better than I do about this but this is --

6 MR. WAHLE: -- that runs from the  
7 high water mark out to the --

8 DR. BROMLEY: The EEZ does?

9 MR. WAHLE: The EEZ does.

10 DR. BROMLEY: Of which three miles  
11 of it is administered by the states?

12 MR. WAHLE: Right.

13 DR. BROMLEY: Okay.

14 DR. OGDEN: Gail had a slide this  
15 morning and I think she had --

16 DR. BROMLEY: Gail is still here.

17 MS. OSHERENKO: I probably put in  
18 territorial sea. Territorial sea and the EEZ.

19 DR. BROMLEY: Territorial sea and  
20 the EEZ.

21 DR. MURRAY: So we can fix that  
22 putting in a clause that would say including

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1 state and territorial waters.

2 DR. BROMLEY: Yes. That would be  
3 nice.

4 DR. MURRAY: Which we will do.

5 DR. BROMLEY: Other questions? Yes,  
6 Max?

7 MR. PETERSON: I think this is an  
8 important contribution to what we're doing.  
9 I had a terrible time under administration  
10 policy in the second paragraph which says  
11 improving marine managed areas which compared  
12 to MPAs are defined as broader --

13 DR. BROMLEY: You're not big on  
14 parentheses are you Max.

15 MR. PETERSON: I don't understand  
16 what that says. But anyway, whatever you  
17 intended to say there needs to be said in  
18 Reader's Digest language.

19 DR. MURRAY: Point acknowledged and,  
20 you know, when in doubt we went back to the  
21 glossary that we had produced in our original  
22 report which contains that sort of language.

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1 But we'll look at trying to make that a little  
2 briefer I think.

3 MR. PETERSON: It might even be just  
4 leaving out that parentheses.

5 DR. MURRAY: The reason why the  
6 parenthetical statement was put in was because  
7 when you read through this document Marine  
8 Managed Areas does not appear until that  
9 particular bullet. And hence some effort to  
10 define a Marine Managed Area was made.

11 That was brought up in one of our  
12 conference calls as a deficiency in the earlier  
13 draft. So the attempt was made to use our  
14 previous document and language in it to build  
15 into this one what an MMA was.

16 MR. PETERSON: Maybe a separate  
17 statement might do it.

18 DR. MURRAY: I think a separate  
19 statement would be the best.

20 MR. PETERSON: Yes. I mean I read  
21 that and I said to myself what the hell's he  
22 trying to say?

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1 DR. MURRAY: Very good.

2 DR. BROMLEY: Steve, is this  
3 helpful?

4 DR. MURRAY: Yes, what we'll do is  
5 we'll leave off that parenthetical statement.

6  
7 DR. BROMLEY: Other questions? Yes,  
8 Tundi?

9 DR. AGARDY: Steve, at the end of  
10 page 2 and the beginning of page 3 where you're  
11 talking about the link between EBM being that  
12 sometimes ecosystem based management efforts  
13 or initiatives have marine protected areas as  
14 a complement.

15 I know what you're getting at but  
16 all of your examples are fishery-related,  
17 fisheries management-related I should say. And  
18 I know that in this country the EBM focus now  
19 is almost exclusively on fisheries management,  
20 but in other places around the world, and I think  
21 previous to the sudden focus on fisheries  
22 management, people were talking about regional

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1 conservation planning or regional planning  
2 invoking all the same principles and using  
3 spacial management tools in very similar ways  
4 to do things other than manage fisheries. So  
5 if you could throw in some examples of  
6 non-fisheries management related.

7 DR. MURRAY: You're referring to  
8 lines 95 through 97 I think.

9 DR. AGARDY: Yes.

10 DR. MURRAY: Could you just give  
11 us two examples maybe that you would include  
12 on the list?

13 DR. AGARDY: Yes. For instance,  
14 I would consider biosphere reserve designation  
15 as an ecosystem based management tool. And  
16 biosphere reserves usually have nothing to do  
17 with fisheries management, they're meant to  
18 protect a natural heritage.

19 DR. MURRAY: Okay. So we'll take  
20 that suggestion and we'll work in another  
21 example to that list of examples.

22 DR. AGARDY: And you might throw

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1 in something like the Chesapeake Bay mission  
2 is it called or the Chesapeake Bay Program?  
3 Program. Where the idea is to deal with the  
4 watershed of the Chesapeake and some of that  
5 includes MPAs specifically.

6 DR. MURRAY: Okay. That'll be done.

7 DR. BROMLEY: Very good. Other  
8 comments?

9 DR. CHATWIN: I have a question.  
10 The first iteration we were working towards what  
11 became a report and a guidance to the Secretary  
12 of Commerce and Interior. In this iteration  
13 of the committee are we working towards a similar  
14 product? If so, is this going to be a part of  
15 that product? Is this going to be a  
16 recommendation?

17 DR. MURRAY: I think we approached  
18 this as a stand alone effort. Now, does that  
19 mean that we won't see another set of stand alone  
20 efforts that ultimately could be packaged in  
21 some way? Well maybe, but I don't know that  
22 we know that at the moment.

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1           And I think that you look at the time  
2 frame and where we have gone since our meeting  
3 in Portland, we literally went a year between  
4 that meeting and the meeting in Corpus Christi.

5           We regenerated our efforts in Texas and we  
6 reported that smaller more targeted products  
7 what we were hearing were of use to the MPA Center  
8 and Joe and his group. So we approached this  
9 by tackling the small stand alone targeted  
10 product.

11           So I don't think that there's any  
12 master plan to fuse together other products  
13 produced by us or by other subcommittees into  
14 some document that reads from front to back as  
15 a single document. But I can't answer that  
16 question beyond that at the moment.

17           DR. BROMLEY: Joe, would you --

18           MR. URAVITCH: I think part of the  
19 discussion at Corpus Christi was also because  
20 of the staggered terms of the committees now  
21 we wanted to ensure that there was sufficient  
22 time for complete products to be produced before

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1 members go off the committee. And that as things  
2 are completed they're completed instead of  
3 waiting for a two or four year cycle to develop  
4 a final product.

5 DR. BROMLEY: I think the other  
6 subcommittees could also entertain the  
7 possibility of small pieces like this on issues,  
8 regional cooperation, incentives,  
9 implementation.

10 DR. CHATWIN: A clarification  
11 question. Is the intended audience for this  
12 document the Secretaries?

13 DR. BROMLEY: Pardon? What? The  
14 intended audience?

15 DR. CHATWIN: Yes.

16 DR. BROMLEY: I could easily see  
17 it being posted on the MPA web site.

18 DR. MURRAY: Basically they're  
19 recommendations to the Secretaries.

20 DR. CHATWIN: That's our charter,  
21 right.

22 DR. BROMLEY: Yes Max?

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1                   MR. PETERSON:       It would seem to  
2 me that the schedule we're on each one of these  
3 subcommittees are going to produce a finished  
4 document by next year. We ought to send copies  
5 to the Secretaries and then they can do what  
6 they want from there.

7                   DR. BROMLEY:    And Mary wants to get  
8 in here, she may have something.

9                   MS. GLACKIN:    Oh just a minor thing.  
10        I guess the recommendation could actually  
11 include what you think should be done with these,  
12 like this document I really view would have a  
13 much broader use than frankly the Secretaries  
14 are going to --

15                   So it's not only producing the  
16 document but part of your recommendation could  
17 be how the government deal with this document.

18  
19                   DR. BROMLEY:    Yes, that's very good.

20                   DR. MURRAY:     Is the subcommittee  
21 discussed in any detail?

22                   DR. BROMLEY:    My thought would be

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1 that if we get three or four of these then we  
2 could revisit them and say what can we do with  
3 them as a package. So yes.

4 DR. MURRAY: My colleagues remind  
5 me here that we did have a discussion about  
6 whether or not if we're happy with this document  
7 whether we should recommend this for inclusion  
8 in the draft framework.

9 And we did have that discussion.  
10 We thought that we would best move along by  
11 dealing with this and getting it done and then  
12 if we were able to agree that this a committee  
13 product then to bring that discussion item up.

14 But in terms of the document we heard  
15 from Charlie's group that there is a need and  
16 use for this and then we also have the draft  
17 framework before us which does not define  
18 ecosystem based management and literally  
19 doesn't say much about ecosystem based  
20 management in it.

21 Hence, given the way conversations  
22 have gone since that draft framework was

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1 produced in a national sense where ecosystem  
2 based management has become a much more highly  
3 used term, perhaps the inclusion of this  
4 document into that framework would be a  
5 worthwhile thing at this point in time, given  
6 the comment period and the length of time and  
7 so on and so forth for that to be finalized.  
8 That's a fair assessment I believe.

9 DR. BROMLEY: Very good. That's  
10 right. In other words, we as a committee could  
11 say that we're not really sure the framework  
12 document does an adequate job of explaining  
13 ecosystem based management connecting with the  
14 MPAs and send this forward as a intervention  
15 in that process. Yes, Dennis?

16 DR. HEINEMANN: Considering that  
17 I would urge you to take a broader view of what  
18 ecosystem based management is than just a  
19 consensus statement. There are a wide range  
20 of views on what ecosystem based management is,  
21 what the elements are, how they link together  
22 and what the purposes of ecosystem based

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1 management is. And a scientists' consensus  
2 statement is just one of those.

3 And if this document would serve to  
4 inform the framework process about the role of  
5 ecosystem based management and what it is, I  
6 think that we probably should talk more broadly  
7 about the range of ideas about ecosystem based  
8 management.

9 That is not to say that I don't agree  
10 with you, which I do completely that MBAs and  
11 area based management is an essential part of  
12 whichever definition.

13 DR. MURRAY: I'll give a quick  
14 response to that and then I'd like to ask some  
15 of my colleagues if they'd like to comment.  
16 You know, when you tackle a product like this  
17 it can go on and grow and grow and grow and become  
18 a larger and larger and larger effort, and we  
19 tried to make this very sharp and pointed and  
20 short.

21 We have identified another work  
22 product that we will be tackling, which is to

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1 work on relating MPAs to marine spacial planning  
2 and that of course is related, as we've heard  
3 today, to larger level ecosystem based issues.

4 So we have a whole other set of issues that  
5 we would be working in another work product to  
6 try to tie it together.

7 But for this we targeted this  
8 particular definition, which we got from all  
9 our subcommittee members as being a satisfactory  
10 definition and our subcommittee consisted of  
11 a number of different folks. We've seen some  
12 additional information presented today and  
13 we've been aware of that additional information  
14 that could enlarge this into a much larger effort  
15 as well.

16 But Mark do you want to say a few  
17 words and then John on this issue that Dennis  
18 raises?

19 DR. HIXON: Well, only to echo  
20 basically what Steve just said that the focus  
21 of this document is not what is EBM. There are  
22 many definitions, there are whole books written

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1 on the subject. Our intention was to provide  
2 an adequate definition with a context of this  
3 one specific point that EBM and MPAs are related  
4 to each other.

5 DR. HEINEMANN: And I was only  
6 responding to the comment immediately before  
7 mine about this document and forming the  
8 framework process of what EBM is, expanding on  
9 that.

10 I agree with you completely that in  
11 the context of this document alone it's an  
12 example and it's a perfectly fine one to reach  
13 the conclusion that you did that area based is  
14 an essential element of EBM.

15 DR. MURRAY: John, do you want to  
16 say a word or two?

17 DR. OGDEN: No.

18 DR. CHATWIN: I agree with what  
19 Steve said. My concern is more how we  
20 communicate it and how we use this to advance  
21 what our collective objective is. And so one  
22 suggestion might be that you put the conclusions

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1 right up front because you start, this reads  
2 like well these are themes that are being debated  
3 and you end up with this is a pretty important  
4 tool.

5 And now the objective here is to  
6 inform the development of this national system,  
7 and this is a very important benefit, a good  
8 tool to an ecosystem based management. So I  
9 think it could be that that message should be  
10 the first thing the reader receives, not the  
11 last thing.

12 DR. BROMLEY: Tony, can I elaborate  
13 on that. Would you like to call it a working  
14 definition, the conclusions, a definition or  
15 a stipulation? And then the early material is  
16 an elaboration or discussion. Does that get  
17 to your point Tony?

18 DR. CHATWIN: I think it gets to  
19 my point but I personally don't like that term  
20 of working definition.

21 DR. BROMLEY: Okay. But you  
22 wouldn't want to call a conclusion if it comes

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1 up front so we would want to call it something  
2 like here is --

3 DR. CHATWIN: It's a statement.

4 DR. BROMLEY: Well but it's a  
5 definition, this group agrees on these things  
6 and then here's why we call it that.

7 DR. CHATWIN: The last paragraph  
8 is a statement. That should come up front.

9 DR. BROMLEY: You mean the last  
10 paragraph starting on line 99?

11 DR. CHATWIN: No, 109.

12 DR. BROMLEY: Whatever. Okay. 109,  
13 99, whatever. You want a declarative statement  
14 up front about what they have here and then you  
15 want the discussion to come later, is that right?

16 DR. CHATWIN: Yes, I want our  
17 message clear up front so that we don't have  
18 to --

19 DR. BROMLEY: Okay.

20 DR. MURRAY: So what I'm hearing  
21 is that Tony is saying we would move lines 109  
22 to 112 and insert those literally in line 11,

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1 12, as a separate paragraph there.

2 DR. BROMLEY: I think what we're  
3 hearing Steve is people would like a statement  
4 up front, and then an elaboration and  
5 discussion.

6 DR. MURRAY: Okay.

7 DR. BROMLEY: Bob, did you want to  
8 --

9 MR. ZALES: Well my comment is with  
10 the definition of EBM and whether or not this  
11 committee wants to -- because this would appear  
12 to be to be an endorsement of this particular  
13 organization's definition and not seeing all  
14 the rest of the definitions of EBM out there.

15 I mean this is to me, and I mean I'm not saying  
16 I do or I don't, I'm just saying is this committee,  
17 is this what they want to do is endorse this  
18 particular definition of EBM or if there's  
19 something else? Is this just one definition  
20 of many, or something like that, I don't know,  
21 I'm just asking.

22 DR. BROMLEY: Right. That was kind

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1 of Dennis's point. Steve, could you help us  
2 on this?

3 DR. MURRAY: Well, I think this is  
4 an example and I think it's an example that is  
5 quite inclusive. Does it mean that it's  
6 everything as you pointed out Dennis, and I think  
7 you're seeing some additional components as we  
8 gain a broader appreciation of how EBM relates  
9 to other kinds of spacial planning efforts.

10 But I think that when we went through  
11 and reviewed this as a subcommittee we settled  
12 in on this definition fairly comfortably I think.

13  
14 DR. HIXON: How about stating it  
15 as an example? Your point was well taken and  
16 echoes Dennis's point there's more than one  
17 definition out here. So none of us I believe  
18 were focused on this being the definition, but  
19 it's a definition that serves our purposes  
20 within this document.

21 MR. PETERSON: You can say for  
22 purposes of this document.

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1 DR. BROMLEY: There you go. Now  
2 we're getting somewhere.

3 MR. ZALES: I mean whoever reads  
4 this that's not sitting in on this discussion,  
5 reads this and says what is EBM? And then you  
6 say the definition of an EBM provided by this  
7 group is this. And then there's nothing else  
8 there. So that's just my concern.

9 DR. MURRAY: So we can handle that.  
10

11 DR. BROMLEY: Yes, I think that  
12 would help a lot Steve. There are many  
13 definitions and that's why I wanted to call it  
14 a working definition but if you don't like  
15 working. But for our purposes this is what  
16 I would like --

17 And you can even suppress the role  
18 that Compass played in coming up with it. I  
19 mean you can give them credit, you don't want  
20 to plagiarize but you could put it in a footnote  
21 but just say we're going to use, it kind of comes  
22 from this other group and we're happy with that.

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1       Could you do something like that Steve?

2                   DR. MURRAY:     We'll do that.

3                   DR. BROMLEY:   Dennis, does that help  
4 some of your concern?

5                   DR. HEINEMANN:   Yes it does.

6                   DR. BROMLEY:   Other comments? Let  
7 me ask this, if they come back tomorrow or  
8 Thursday morning with a revised version of this,  
9 would the group be willing to entertain it and  
10 to vote on it as the committee worked on it?

11       Okay. Steve, could you come back to us?

12                   DR. MURRAY:   Here's what we're going  
13 to do. We have I think five actions to make  
14 on the document that we'll do between now and  
15 when we come back again I think tomorrow  
16 afternoon.

17                   DR. BROMLEY:   Tomorrow afternoon  
18 if you can do it.

19                   DR. MURRAY:   We need to deal with  
20 the EEZ by including state and territorial  
21 waters. We heard that, so we'll increase that.

22

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1                   We need to make a separate statement  
2 out of what is now a clause, or a parenthetical  
3 clause, that deals with MMAs, line 36. We'll  
4 add biosphere reserves in the Chesapeake Bay  
5 Program, is it Bay Program, lines 95 to 97 as  
6 two additional examples.

7                   We'll generate a summary and stick  
8 it up front as the first thing that occurs in  
9 the document. And then on line 46 we'll deal  
10 with the Compass issue by indicating that as  
11 an example of a definition, for purposes of this  
12 document the following definition will be used.

13  
14                   And that's what we've heard, so  
15 we'll bring that back to you, project it up and  
16 show you our changes in red or some other color,  
17 and then seek your approval on that document,  
18 if that's agreeable with everybody, tomorrow  
19 afternoon. Does that sound like a satisfactory  
20 approach for everybody?

21                   DR. BROMLEY: Good. Okay. Thank  
22 you. We're 15 minutes ahead. Do you want to

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1 talk for 15 minutes Steve? Never mind.

2 DR. MURRAY: That's a dangerous  
3 thing to ask.

4 DR. BROMLEY: I believe we have only  
5 one person signed up for public comment period.

6 Has anyone come in who would like to -- at four  
7 o'clock yes. Have you signed? Okay. We'll  
8 get you signed up. Nobody leave. Yes, George?

9 MR. LAPOINTE: I want to follow up  
10 a little bit on the discussion you had of the  
11 elections because, as you say, various people  
12 are talking to other people about either  
13 victimizing or being victimized.

14 If you could, what workload does the  
15 chair entail? What has it meant outside of  
16 normal committee meetings because I think that's  
17 important for people to consider?

18 DR. BROMLEY: Yes, okay. The Chair  
19 in some respects has a lighter workload than  
20 subcommittee members because you folks have lots  
21 of conference calls, not lots, maybe two or three  
22 conference calls. You have writing to do.

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1 I have escaped all of that.

2           During the first two years the Chair  
3 carried quite a large burden because you might  
4 recall when we had your subcommittee drafts  
5 somebody had to take all those disparate work  
6 products and distill them into one and guess  
7 who did that?

8           And so during the first two years  
9 the Chair's job when we got down to that latter  
10 part of our work was rather hard.

11           Since that time it's become easier  
12 and so what you see here, you know, the Chair  
13 does this, the Chair roams around and meets with  
14 different subcommittees and when he gets bored  
15 with the conversation he can leave and go call  
16 his office or check his e-mail or whatever.

17           So the workload now has dropped off  
18 considerably.

19           So for those of you who would like  
20 to be Chair and are afraid of the workload  
21 outside of the meetings, I say there's not much  
22 to be afraid of.

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1           Before each meeting there will be  
2 a conference call of kind of the executive  
3 committee, so that would be the subcommittee  
4 chairs, it would be the vice chair, the chair,  
5 Joe, Lauren, Charlie and several MPA Center  
6 staff are involved in that phone call. You've  
7 probably been involved with those.

8           What we do is we think of the agenda,  
9 so I would say the workload is not perhaps as  
10 serious a workload as the subcommittee chairs  
11 carry between meetings. Indeed, I would say  
12 it's a lighter one between meeting. Lauren,  
13 what do you think, is that right?

14           MS. WENZEL: Yes, but that doesn't  
15 let any of you off the hook for a subcommittee  
16 chair.

17           DR. BROMLEY: Right. So Tony?

18           DR. CHATWIN: I was going to wait  
19 until tomorrow for the subcommittee reports but  
20 if you agree there is an issue in subcommittee  
21 that we are really struggling with and we  
22 wanted to bring it to the full committee and

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1 we might not reach consensus or closure on this  
2 matter in these next 15 minutes but at least  
3 everybody can think about it overnight and maybe  
4 help give us some guidance.

5 DR. BROMLEY: Yes, please do.

6 DR. CHATWIN: And as I reported this  
7 morning we have been discussing this one issue  
8 for about, well since the last meeting, every  
9 conference call that we've had it's come up and  
10 we haven't really reached consensus. And I think  
11 we need to get to consensus.

12 And the issue is under the auspices  
13 of the, we have the implementation and  
14 incentives subcommittee of the National System  
15 and related to incentives we've been talking  
16 back and forth of different scenarios for  
17 implementing the national system. And a  
18 scenario which would provide better incentives  
19 for the system as a whole to improve over time.

20 And the different scenarios that we  
21 have come up with the first is the all inclusive  
22 scenario, which is the status quo as the

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1 framework describes it, whatever MMA sites  
2 satisfy the criteria for entry come in and, as  
3 we heard this morning, it's about 1,500 sites  
4 would be part of the national system of Marine  
5 Protected Areas.

6 So that's one scenario that it's all  
7 inclusive site. And within that we struggled  
8 to see how we would create incentives for sites  
9 that are already in the national system to  
10 improve. If they have to do nothing other than  
11 meet the criteria, where would be the incentive  
12 to be part of the system?

13 Another scenario would be to be all  
14 inclusive but create tiers or benchmarks within  
15 the national system and we talked about three  
16 tiers or two tiers and it would be based on  
17 performance criteria. We talked about input  
18 criteria, we talked about output like how well  
19 are the results of the management efforts.

20 We haven't discussed the criteria  
21 in great detail but it's the concept that we  
22 need some guidance on.

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1           So I've described two scenarios.  
2           The other scenario is to tighten the entrance  
3           requirements so that they be more selective for  
4           entrance into the national system. And then  
5           within that also continue with a couple of tiers.

6           So that incentives would be created  
7           so that sites would have incentive to enter or  
8           they would see entrance into the system as  
9           incentive, as something that they would perhaps  
10          assign more value to if they had to do something  
11          to get in. And the same concept applies to  
12          the tiers. If you're in a lower tier, getting  
13          into the higher tier would be seen as having  
14          value so it would be putting in some effort.

15          And these are the different  
16          scenarios. There is no consensus of which one  
17          the subcommittee is leaning towards. We really  
18          have gone around and around and it's very complex,  
19          in part because we haven't discussed in great  
20          detail the different types of incentives that  
21          could exist. And that's what we're going to  
22          do tomorrow afternoon.

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1           But what would be very helpful to  
2 us is to get a sense from the committee if we  
3 should be thinking about these different  
4 scenarios at all, or we should just say the  
5 committee says, if the committee says status  
6 quo the all inclusive scenario is satisfactory,  
7 and that means all 1,500 sites and so folks that  
8 are at whatever level of government you are,  
9 but that means that all the sites will get into  
10 that.

11           Does that have some repercussions  
12 with the constituents in the states for example  
13 that may not want a certain site that meets a  
14 criteria to be referred to as an MPA. It was  
15 okay as an MMA but as an MPA there's a certain  
16 baggage to that, too,

17           So we need to hear from the committee.

18           Should we try to develop this -- the first  
19 question is should we be looking at the entrance  
20 criteria again? Revisit that or not?

21           DR. BROMLEY: Make it harder to get  
22 in?

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1 DR. CHATWIN: Harder to get in.  
2 More selective.

3 DR. BROMLEY: Raise the bar.

4 DR. CHATWIN: Because if that is  
5 the will of the committee we'll go back and try  
6 to develop criteria to make that --

7 DR. BROMLEY: Okay. So that's kind  
8 of one question. Should the bar be raised?  
9 The second question is then once you're in should  
10 there be a hierarchy within it, is that correct  
11 Tony?

12 DR. CHATWIN: Right. A tiered  
13 system.

14 DR. BROMLEY: All right. Are those  
15 kind of two questions?

16 DR. CHATWIN: Those are the two  
17 questions. If we get a sense of the committee  
18 on both of those, that would make our work much  
19 more effective.

20 DR. BROMLEY: Okay. We have a few  
21 minutes. Are there people who have particular  
22 insights, briefly stated, that could help Tony

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1 and his group? Bob?

2 MR. ZALES: Well I just have a real  
3 simple question that was asked several meetings  
4 ago and I asked it at that committee meeting,  
5 too. What is the big prize for becoming an MPA?

6 I mean you're sitting here and you're talking  
7 about raising the bar to get into some  
8 organization, what do you get for that? Why  
9 would somebody want to go to such efforts to  
10 get whatever they're going to get?

11 And I think what they're going to  
12 get, to me anyway, still hasn't been made clear.

13 I don't know what the big advantage to becoming  
14 a nationally recognized MPA is.

15 DR. BROMLEY: Good. So there's a  
16 thing that you guys could answer Tony. If you're  
17 going to come in with a higher bar, you've got  
18 to answer Bob, we've got to be able to say what  
19 are the benefits, right? Let's just get comments.

20 I think Max had a comment, too.

21 MR. PETERSON: I guess my first  
22 comment is that I definitely would not favor

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1 a tier system. I think you would get into issues  
2 that you don't want to really deal with because  
3 trying to grade the management barriers is a  
4 loser. You can have incentives to improve the  
5 management, but setting up and creating a system  
6 I think would be a real problem.

7 The second one is that in our  
8 committee we've dealt quite a bit with  
9 incentives and about the only incentive you can  
10 come up with unless it would be funding would  
11 be such things as being able to exchange  
12 information that might be useful, scientific  
13 information, research that went on that might  
14 be useful. Sharing success stories of what was  
15 successful and what wasn't successful, having  
16 a newsletter maybe that would provide  
17 information or doing an e-mail.

18 In other words those kinds of  
19 incentives. And I would not think we would  
20 want -- the criteria that we were hearing might  
21 be given some thought, but I wouldn't want  
22 particularly to raise the bar, because I don't

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1 think that there's going to be a huge clamor  
2 for people to get in it right now unless we can  
3 articulate the advantages of it is my thought.

4 DR. BROMLEY: Great. Okay. Mary?

5 MS. GLACKIN: I guess I wonder one  
6 thing and this is kind of brainstorming I haven't  
7 thought about this a whole lot. One thing that  
8 might help for people to try to approve is if  
9 there would be, you could imagine down the line  
10 where we had more effort into looking at the  
11 three goals or three reasons why you have them,  
12 how well the collective national network looks  
13 like in terms of meeting them.

14 So if it was some kind of report or  
15 evaluation that's done routinely that says we  
16 really have no cultural resource MPAs, you know,  
17 in this part of the country. That could actually  
18 be an incentive for somebody to step up and  
19 certainly something that a local manager could  
20 take to the legislature or something to say look,  
21 this kind of thing.

22 DR. BROMLEY: This would start at

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1 the top. I mean somebody would look down at  
2 the system and say you know it's not quite  
3 complete. We've got lots of those but we don't  
4 have very many of those which then that creates  
5 an incentive for somebody to step forward.  
6 Yes?

7 DR. CHATWIN: Just to elaborate on  
8 that. One thing the next day is that status  
9 of the national system report is envisioned.  
10 And so I can see that as an incentive but then  
11 the question was it's an incentive to be all  
12 inclusive, it's an incentive for all the  
13 participants?

14 MS. GLACKIN: Well, I guess I think  
15 that the path that we're on is that the resources  
16 to establish and improve MPAs are actually as  
17 we've seen from the data that's presented,  
18 largely coming from state and local levels  
19 because that's where it is. And I think those  
20 resources are committed because cases are made  
21 there that that's a more important thing to do  
22 than this other thing that could have been done.

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1           So in a sense if you come back to  
2 now what does a system of MPAs look like, if  
3 you're articulating on the system and you could  
4 imagine some of the stuff, you know, we've talked  
5 a couple of times here today about highly  
6 migratory species. If we have one part of their  
7 domain pinned down and we have a gap down here,  
8 you could be giving the manager in that location  
9 a good strong argument to take to their  
10 legislature that they might not be able to make  
11 on their own.

12           So I mean whether you call it  
13 incentive but it's something that I think to  
14 move forward.

15           DR. BROMLEY: Give them reasons yes.

16           Other feedback for Tony? Tony, what do you  
17 think, has this helped you?

18           DR. CHATWIN: Yes, it's good. And  
19 you know the intention to bring it up there is  
20 not as I said to reach that answer but I would  
21 ask that you all think about it and tomorrow  
22 if you could provide some more input that would

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1 be great.

2 DR. BROMLEY: Yes. Mark? We have  
3 two minutes here.

4 DR. HIXON: Very quickly. You spoke  
5 about you were going tomorrow to start creating  
6 a list of incentives. That would be extremely  
7 helpful up front because I'm still imagining  
8 what are the incentives besides the money?

9 DR. CHATWIN: Just very quickly,  
10 Mr. Chairman, if we haven't already talked about  
11 this, members of the subcommittee have created  
12 a list of benefits of the national system and  
13 they were largely non-financial benefits that  
14 involve all the synergies that we have  
15 mentioned.

16 And what we hope to discuss a bit  
17 is what are existing authorities and how - could  
18 be leveraged to how the system could help guide  
19 them. I don't know, we haven't discussed it.

20 MR. PETERSON: Tony, I'm aware that  
21 the biosphere reserve in Mexico which briefly  
22 there was an economic study that indicated

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1 there's substantial local economic benefits  
2 that biosphere reserves were much greater than  
3 the original fishing there. And that's a pretty  
4 important thing to say to people that an MPA  
5 can create local economic benefits to the  
6 population. That could be a tangible important  
7 that would be important for people to think  
8 about.

9 DR. CHATWIN: Thank you.

10 DR. BROMLEY: Very good. Other  
11 feedback for Tony? Thanks for bringing it up,  
12 I think that was a good use of time.

13 Okay. We're now in our public  
14 comment period. We have two people who have  
15 expressed a desire to speak. Ordinarily, we  
16 have a four or five minute time limit on it and  
17 to show what a gracious guy I am we'll give you  
18 five to six minutes.

19 And the only thing that stands  
20 between you and more time is the committee  
21 getting out of this room. So let your conscience  
22 be your guide.

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1           So the two people who've requested  
2           to speak then? Ben Enticknap, would you go  
3           first, introduce yourself? Stand up and we need  
4           you have a microphone. Don't get too comfortable  
5           Ben. Okay you're on and thank you for coming.

6  
7           MR. ENTICKNAP: Thank you Dr.  
8           Bromley and members of the committee. My name  
9           is Ben Enticknap and I work with the  
10          international marine conservation group called  
11          Oceana.

12          I wanted to talk a little bit about  
13          why I think this work that you're doing is so  
14          important and offer some of my experiences that  
15          I've had in identifying and protecting special  
16          habitat areas in the north Pacific off Alaska  
17          and the Pacific here off the West Coast, and  
18          offer what Oceana's approach is in going about  
19          doing this and I hope to inform you of our work  
20          and hope to inform your work through this  
21          dialogue.

22          I'll be talking here and then also

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1 submitting written comments on your draft  
2 framework.

3           So I worked in the north Pacific for  
4 quite a bit of time on the central fish habitat  
5 with the North Pacific Fishery Management  
6 Council. I was on their committee, and we were  
7 working to identify important ecological areas  
8 and protect habitats from primarily the threats  
9 of bottom trawling. So I'll speak a little  
10 bit about that as I go further along.

11           But I want to start off by saying  
12 that this work is very important given that we  
13 have seven billion coming to our planet some  
14 time soon and we have to plan for how we are  
15 going to manage the human impacts on the oceans  
16 with threats like global warming and industrial  
17 fisheries.

18           Given those threats of industrial  
19 fisheries, large scale industrial fisheries,  
20 global warming and our human presence, we need  
21 to pull a protective blanket over the special  
22 places in our oceans, we need to have networks

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1 of Marine Protected Areas.

2 There's been a lot of work, as you  
3 know, to illustrate this point from the Pew  
4 Reports and the U.S. Commission of Ocean Policy  
5 reports. Recently there was a report or a  
6 release of the West Coast governors, the  
7 governors of California, Oregon and Washington,  
8 have issued an agreement, the West Coast  
9 Governors Agreement on Ocean Health September  
10 18, 2006, and some of the priorities that they  
11 have identified are protecting and restoring  
12 healthy ocean and coastal habitats and promoting  
13 the effective implementation of ecosystem based  
14 management of our ocean and coastal resources.

15 Now clearly this is something that  
16 you're working on and we need to work on together  
17 is protecting and restoring coastal and ocean  
18 habitats and linking this through the broader  
19 umbrella of ecosystem based management which  
20 I see in protected areas as being an important  
21 tool for accomplishing ecosystem based  
22 management. Of course which is not a goal in

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1       itself but it's a way to achieve key goals of  
2       ocean health, sustainable fisheries and vibrant  
3       coastal communities.

4               Some of the work that I've been doing  
5       is identifying important ecological areas and  
6       freezing the footprint of bottom trawling.

7               The National Academy of Science  
8       report on the effects of bottom trawling on sea  
9       floor habitats has shown that it's one of the  
10      most destructive fishing practices currently  
11      ongoing. We've been working to freeze the  
12      footprint of bottom trawling in the north  
13      Pacific and off the West Coast states.

14              And then also what we do next is  
15      after you've froze the footprint of bottom  
16      trawling is to identify the important ecological  
17      areas within that footprint and figure out what  
18      you're going to do about those special places,  
19      the footprint's been outside those areas that  
20      have been protected.

21              To identify important ecological  
22      areas we have really a three step approach and

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1 that's to identify key ecological criteria, and  
2 those can be important habitat features such  
3 as cold water corals and sponges or rocky reefs,  
4 kelp forests, and then gather all that data and  
5 analyze all that data to figure out what are  
6 these areas and of course ground truth those  
7 areas with experts. Go and talk to people, talk  
8 to fishermen, talk to scientists and really get  
9 some feedback as we adjust our maps and figure  
10 out where these areas are.

11 And then the second step that we do  
12 is to identify the threats to those areas. So  
13 first we gather all the information, put it into  
14 a map, identify the threats to those areas and  
15 then, last, we identify management objectives  
16 for the important ecological areas and then  
17 assign conservation measures based on the  
18 threats and objectives of those areas.

19 So really we see those as the key  
20 steps and we've been doing that in our work in  
21 Alaska. We've been doing that in our work off  
22 the Pacific and in the states of California and

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1 here in Oregon.

2 And then, of course, always after  
3 implementing Marine Protected Areas and part  
4 of that process is to have research monitoring  
5 and adaptive management. We see those as key  
6 steps in that protected area framework.

7 And last I'll wrap up, Mr. Chair,  
8 in talking just briefly about the terms Marine  
9 Protected Area and Marine Reserves, we rarely  
10 ever use those terms but yet we still get to  
11 protecting those places by gathering this  
12 information, identifying important areas and  
13 working with fishermen and scientists and people  
14 in the communities and managers to protect them.

15 What we ended up in the north Pacific  
16 is effectively the largest Marine Protected Area  
17 in the United States, the Aleutian Islands  
18 habitat conservation area, which froze the  
19 footprint of bottom trawling.

20 We never called it a Marine  
21 Protected Area, we never used those terms as  
22 we went about doing that. We also never used

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1 the term Marine Reserve, but within that  
2 footprint of bottom trawling we identified  
3 important and sensitive habitats, cold water  
4 corals and sponges that required special  
5 attention and special protection.

6 We worked with managers in the  
7 industry to find ways to protect those special  
8 and unique places from threats and now NOAA  
9 effectively calls them Marine Reserves. So  
10 we don't try and get wrapped down or bogged up  
11 in the terms but really about the areas and  
12 finding ways to promote and conserve those  
13 special and unique places in our oceans.

14 And that concludes my testimony and  
15 I really appreciate your time and thank you for  
16 coming here to Oregon.

17 DR. BROMLEY: Well thank you. Okay.

18 We do allow questions, if any of you would like  
19 to ask a question of the speaker. Yes Michael?

20 DR. CRUICKSHANK: Do you have any  
21 sense of in the area of educating K through 12  
22 in what you're doing and what the potential of

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1 these areas is in your areas? Is that something  
2 that could be applied through the MPA system?

3 MR. ENTICKNAP: I think that's an  
4 excellent question. I personally have not  
5 worked a lot educating in the area from K to  
6 12. I think most of my work on education have  
7 been to educate managers and the public on our  
8 work. But I absolutely feel that that's  
9 important for our youth and children to educate  
10 them of the importance of healthy oceans.

11 DR. BROMLEY: Okay. Mark?

12 DR. HIXON: You spoke of this  
13 process of mapping areas to define where the  
14 threats were. Basically it sounds like sort  
15 of a gap analysis, is that correct, of what areas  
16 need to be protected based on different goals  
17 and criteria?

18 MR. ENTICKNAP: That's correct.  
19 We try and get as much information as we can.

20 We ended up having to submit a FOIA to NOAA  
21 to get information on coral by catch and sponge  
22 by catch and information on what's important

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1 to the fishing fleets, because that's also an  
2 important criteria in these areas, what's  
3 important to the fishermen and what are the  
4 sensitive habitats.

5 Get everything that we can together  
6 and use the information that we have now to make  
7 those decisions.

8 DR. HIXON: So actually my question  
9 is what areas have you viewed in this process  
10 besides the last --

11 MR. ENTICKNAP: We did this in our  
12 work through a central fish habitat in Alaska  
13 and then the federal waters off the West Coast.

14 And we also worked in the California MLPA  
15 process and we are doing this work here in Oregon  
16 as well in state waters, gathering all the  
17 information and trying to figure out where these  
18 important ecological areas are.

19 DR. BROMLEY: Okay. Thanks very  
20 much. Our next speaker is Melinda McCome.

21 MS. MCCOMB: Hi, I'm Melinda McCome,  
22 I live here in Newport, Oregon and I'm

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1 representing myself.

2 I wanted to encourage you to pursue  
3 the Marine Protected Areas and ecosystem based  
4 management. I would differ slightly in probably  
5 my definition of what ecosystem based management  
6 is. Your definition here says the goal of  
7 ecosystem based management is to manage an  
8 ecosystem in a healthy, productive and resilient  
9 condition so that it can provide the services  
10 humans want and need.

11 I don't think it's all about human  
12 needs. I take a much more deep ecology approach  
13 and I think it's about protecting the life forms  
14 for their own sake. It's not all about us  
15 managing these systems so that we can get what  
16 we want out of them. Okay?

17 But I do support ecosystem based  
18 management and where the real difference came  
19 to me was I was studying intertidal harvesting  
20 of marine algae and to the north of us here  
21 Washington has taken an approach where they said  
22 no commercial harvesting of marine algae.

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1           And they did that on the basis of  
2 not that it didn't grow back, but because they  
3 understood that marine algae forms the  
4 architecture, what keeps everything moist and  
5 stops dessication during low tides and that and  
6 they said no harvesting. Okay.

7           To the south of us in California  
8 anyone who wants a commercial harvesting permit  
9 and will pay \$100 dollars can have one. They  
10 issue as many permits as they want and all of  
11 their studies revolve around lake cutting  
12 studies of marine algae. Okay? They cut it  
13 different ways as controls and then they come  
14 back and they say, okay, it grew back, you can  
15 harvest it.

16           They don't look at how it affects  
17 say numbers of viability spore, they just look  
18 at it and say, yes, it grew back, you can harvest  
19 it.

20           And these are very very different  
21 approaches and they're all using science and  
22 they've chosen different types of science.

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1           Oregon here hasn't decided where  
2           it's going with that. They haven't actually  
3           developed a policy yet on commercial harvesting  
4           so it is important as to which model they're  
5           going to follow, the one to the south of us or  
6           the one to the north of us.

7           And that's sort of been my  
8           experience with the really dramatic differences  
9           in decisions that are made based upon what your  
10          goals are and how they're defined.

11          So basically that's really all I  
12          want to say and just support that effort and  
13          to also go beyond human needs. Thank you.

14          DR. BROMLEY: Good. Don't leave  
15          we may want to ask you a question. Good.  
16          Questions. Steve?

17          DR. MURRAY: I'm not sure you have  
18          the California policy exactly right but the  
19          point that you made is well taken that you  
20          shouldn't overlook the architecture in the  
21          system which in the shoreline systems is  
22          frequently the seaweeds and sea grasses that

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1 occur there, so I will just simply raise that  
2 flag for that point.

3 MS. MCCOME: I understand that the  
4 offshore kelp leases are a completely different  
5 issue. I'm really referring to intertidal  
6 harvesting and they do issue the permits there.

7 And sometimes they don't totally ask  
8 the right question at all. I mean is the right  
9 question does it grow back? Is the right  
10 question what happens to water quality when you  
11 go into a cove and take out a ton a day? Is  
12 the right question what happens to economically  
13 important species, say crabs, baby crabs that  
14 grow up in the tidal areas and migrate out to  
15 sea later on? What is the important question  
16 there? Thank you.

17 DR. BROMLEY: Good. Other questions  
18 for her? No? Okay. Thank you Ms. McCome and  
19 the other speaker as well.

20 Lauren says we can get out early.  
21 Go ahead Lauren.

22 MS. WENZEL: Actually, just to make

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1 sure folks know. They're going to be clearing  
2 the aquarium out at five and our reception starts  
3 at six so they just asked folks, especially since  
4 we're leaving early that gives you a little time  
5 and then just come back at six and the reception  
6 will be in the main hall and the areas around  
7 there.

8 (Whereupon, the Committee Meeting  
9 and Public Forum was adjourned at 5:00 p.m.)

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