

Setting a New Course for Ocean Governance: The Straw Governance Model

20 With that I would like to introduce

21 Bill Ruckelshaus, our chair of the Governance Working

22 Group. He has two items, the first will be "Setting a

1 New Course for Ocean Governance: The Straw Governance
2 Model." Bill Ruckelshaus.

3 SETTING A NEW COURSE FOR OCEAN GOVERNANCE:

4 THE STRAW GOVERNANCE MODEL

5 MR. RUCKELSHAUS: Thank you, Mr. Chairman.

6 (A slide presentation is in progress.)

7 MR. RUCKELSHAUS: Commissions of this kind are
8 really agents for change, and you will see in the first
9 slide that we are setting a new course for ocean
10 governance, the Straw Governance Model. "Straw" sounds
11 a little bit like it is ready to blow away. This is not
12 what we will call our final recommendation, obviously.
13 Straw in the sense that we have not yet reached a
14 conclusion on what our, the Commission hasn't, final

15 recommendations will be.

16 As the Chairman mentioned, some of the

17 recommendations represent a consensus of the working

18 group. However, as we hear from members of the

19 Commission their reactions to what we have recommended,

20 we certainly reserve the right, and indeed the duty, to

21 amend our recommendations consistent with those comments

22 of the other members of the Commission.

1 This is really, as the Chairman has mentioned,
2 an iterative process in that we will make a set of
3 recommendations, hear from members of the Commission
4 later on today and members of the public who may express
5 their own reaction to our tentative recommendations, and
6 if we are persuaded that those recommendations make
7 sense and should be added to those under current
8 deliberation or should modify in some way what we are
9 thinking about doing, certainly we should do that. That
10 is the process that we are going through.

11 Since this Commission is supposed to be an
12 agent of change, it sort of underscores our devotion to
13 change by recognizing that we will be changing between
14 now and our final recommendations what you are going to

15 hear today.

16 The next slide, please.

17 The outline of our short presentation at the

18 beginning is an introduction some of which you have

19 already heard. We will then describe a national ocean

20 policy framework, which we are as a working group

21 recommending at this point, and then some discussion of

22 the phased approach that is inherent in this

1 recommendation.

2 The next slide.

3 As this slide indicates, the Commission will

4 be making a number of recommendations, some of which you

5 will hear today from reports of the other working

6 groups. Many of these recommendations can be carried

7 out immediately and some will take longer to implement.

8 In any event, it is our believe, our working group's

9 belief, that if these recommendations are to result in

10 change, in change policy, there needs to be some

11 institutional underpinning that will drive the change.

12 Our Commission by the nature of the statute

13 that created us goes out of existence once we make our

14 recommendations, or at least shortly thereafter. Unless

15 there is some way for the executive branch or the
16 legislative branch to continue to drive the change of
17 the recommendations that we make, we are concerned that
18 they will not result in any significant change.

19 What we are recommending is what we are
20 calling at this juncture a "national ocean policy
21 framework" to begin the process of undertaking the
22 recommendations, the change recommendations that we are

1 making, and to see that the needed progress continues.

2 Our framework recommendation, as the slide indicates, is

3 made with the recognition that the Commission is still

4 considering a lot of options.

5 This recommendation for a structural change

6 does in no way preclude recommendations that may be

7 coming from other working groups, or in fact coming from

8 our working group, having to do with consolidation of

9 existing agencies, departments, or pieces of agencies or

10 departments that are working on ocean policy where there

11 may be some overlap, there may be some efficiencies to

12 be gained by consolidation, there may be more national

13 focus that can be put on the problems of the ocean as a

14 result of these recommendations.

15 What we are suggesting here does in no way
16 preclude recommendations which the Commission may later
17 make having to do with consolidations themselves. It is
18 important to note I think that most consolidations,
19 except those that might occur within a department or
20 within an agency, will take statutory change. That, as
21 we all know, takes time. It does not happen overnight,
22 and, in fact, it can take years.

1 What we think is needed is some institutional
2 mechanism for pushing immediately some of the changes or
3 recommendations that we are making, and at the same time
4 guide the process whereby the statutes are both formed
5 and constituencies are enlisted to support them
6 including the members of Congress and then finally
7 statutory change takes place. Recommendations relating
8 to significant consolidations would, by the nature of
9 those recommendations, take longer.

10 The next slide, please.

11 The framework that we are suggesting is that
12 the President should act immediately through an
13 executive order and create this national policy
14 framework, which is composed of three pieces: an

15 Executive Office of Ocean Policy that would be headed by

16 an assistant to the President, at least that is one

17 version of how it could be done; a National Ocean

18 Council; and then an advisory committee.

19 The next slide, please.

20 The national ocean policy framework in its

21 first instance would include an Executive Office of

22 Ocean Policy to be lead by a presidential appointee who,

1 as I mentioned, could well be an assistant to the
2 president. In fact, that is currently what our working
3 group thinks should happen. That office would be
4 staffed as necessary both to support the activities of
5 that office as well as the National Ocean Council, which
6 is the second part of the national ocean policy
7 framework.

8 Next slide, please.

9 The National Ocean Council would be chaired by
10 this presidential appointee and made up of the principal
11 agency departments that have significant ocean
12 responsibilities. It would be a Federal council made up
13 of Federal officials.

14 The reason for having the recommendation for

15 having this council chaired by someone separate from
16 those existing agencies is that many of the functions
17 which we think the council needs to undertake and could
18 be undertaken immediately have to do with a resolution
19 of disputes, the coordination of address of issues that
20 need more improvement across federal agencies, and it
21 would be difficult to accomplish that if the chairman of
22 the council were in fact a member of one of those

1 agencies where more coordination or dispute resolution
2 was necessary.

3 We think because the chair would be part of
4 the White House itself it would give the council
5 sufficient prestige and thrust to accomplish some of the
6 difficult tasks which are being assigned to it.

7 The next slide, please.

8 The third part of our framework is an advisory
9 committee that is much broader in its makeup. As this
10 slide suggests, it could be made up of local, state,
11 tribal officials, citizen groups of all kinds,
12 representatives of industry, people who are broadly
13 representative of the interests that are bound to be
14 affected by any change relating to the ocean.

15 It is our feeling that if this framework is
16 going to be effective it needs a group of distinguished
17 representative Americans who can help advise the council
18 and advise the Office of Ocean Policy as it moves
19 forward. Obviously, that kind of council would have to
20 operate under the terms of FACA, just as this Commission
21 does.

22 Next slide, please.

1 We are recommending for some of the work that
2 the Council would undertake, an assistant to the
3 president would undertake, a phased approach. As many
4 of the recommendations that we are making could be
5 undertaken immediately, they wouldn't have to wait for
6 statutory change or whatever more formal action would be
7 undertaken by the Congress, I have already mentioned a
8 couple of those.

9 For example, interagency disputes, the
10 improved coordination of address of policies where
11 multiple agencies or issues where multiple agencies'
12 responsibilities sometimes conflict, sometimes overlap
13 or sometimes are in fact consistent, but the need to
14 coordinate what we are doing to effectively address

15 those issues, in fact, needs considerable guidance and

16 coordination.

17 We believe it is necessary to develop a

18 national ocean research plan to implement a National

19 Ocean Data Center. The Council under our recommendation

20 would have the affirmative responsibility of guiding

21 those kinds of activities, not undertaking them

22 necessarily themselves, or, for instance, in the case of

1 a data center, necessarily being the place where the
2 data was in fact centered, but guiding the development
3 of the data center so it is both relevant, consistent in
4 the way in which it is displayed, and made broadly
5 available to the people in the government or citizens
6 who need access to that data in order to guide
7 decisions.

8 There are a number of other kinds of
9 activities including monitoring the recommendations of
10 the Commission itself that can be undertaken by the
11 assistant to the president or by the Council itself that
12 need immediate address. If there is no institution
13 currently that would drive the recommendations of the
14 Commission, which there isn't, then we are concerned

15 those recommendations will simply go into the ether and
16 nobody will pay any attention to them. We think it is
17 important that they be followed up.

18 Next slide, please -- well, wait a minute,
19 back up one, sorry.

20 The three-phased approach is the approach that
21 we are recommending be taken to a longer range set of
22 recommendations.

1 Now next slide.

2 In Phase I, it is a three-phased approach that

3 we are recommending, it would be the immediate action of

4 the President by executive order to create this

5 framework for ocean policy, that I have already

6 discussed, that as is mentioned here that the Commission

7 have this responsibility of monitoring and overseeing

8 the recommendations of the Council, have the

9 responsibility for overseeing and monitoring the

10 recommendations of the Commission.

11 In addition to these kinds of activities, in

12 Phase I -- the next slide, please -- would be Executive

13 Office and the council working very closely with state

14 and local governments, other citizens groups and

15 representatives and interests throughout the society in
16 developing and building support for recommendations that
17 in fact require statutory change.

18 It is our belief that those statutes have a
19 better chance of being broadly supported and passing by
20 the Congress if there is, in fact, a lot of work done
21 ahead of time to understand what the nature of these
22 statutes should be. We will have some specific

1 recommendations ourselves on what those statutes should
2 contain.

3 However, when it comes to things like how to
4 manage our coastal zone activities more effectively, it
5 is absolutely essential in our judgment to include the
6 states, include the local governments, include the
7 people that will be most dramatically affected by the
8 changes resulting from those recommendations in the
9 deliberations that would lead to a statute that in fact
10 would be introduced into the Congress.

11 There are several possible statutory changes
12 that could result. At the bottom of this slide, some of
13 them are mentioned. It could be a National Ocean Policy
14 Act, which would involve several of the broader

15 recommendations of the Commission as it relates to
16 setting broad goals and activities that would define the
17 nation's address to ocean policy.

18 We are considering, which I will discuss in
19 more detail in the second part of this set of
20 recommendations, the second generation of coastal
21 management, which includes the creation of regional
22 ocean councils. At the end of Phase I, or Phase I may

1 have last and in fact overlap in some cases Phase II, we
2 would end up with a proposed statute broadly supported
3 that would have included consultations obviously with
4 members of Congress as well as state and local
5 governments and interested citizens and groups around
6 the country.

7 Phase II would be the actual shepherding of
8 this, whatever statutory change was being recommended,
9 through the Congress. This would be in the hopes that
10 with the broad support that had been generated for that
11 statutory change during Phase I, including congressional
12 input, there would be in Phase II a much more
13 accelerated process of statutory change that would
14 occur, if we simply recommended a broad-based statute of

15 the kinds that are listed in that previous slide, and
16 hope that after it was recommended it was then possible
17 to generate sufficient support for it to get it passed.

18 Phase III is simply the implementation of the
19 statutory changes that would have taken place at the end
20 of Phase II.

21 Well, that is an obviously very shortened
22 version of our recommendation of the working group for

1 consideration by the broader Commission. I think, John,
2 now may be the time to get reactions from the Commission
3 and try to respond to any suggestions or questions they
4 have.

5 DR. EHRMANN: Mr. Chairman?

6 CHAIRMAN WATKINS: Bill, to what extent do you
7 feel, in the preparation of this from the working group
8 do you feel, that from the hearings we have had across
9 the country and from other inputs that the Commission
10 has received from outside studies like the National
11 Academy and others, do you think we have built the
12 detailed justification for the need for this framework?

13 I assume you do or you wouldn't recommend
14 this. But do you think you have them in hand in

15 sufficient detail that the rest of the commissioners can
16 have access to that information and feel comfortable
17 that the problems are so significant here to address,
18 because of what we have heard about a lack of
19 coordination and a lack of bottom-up to top-down
20 relationships, and so forth? Do you think the working
21 group is comfortable that you have that data in hand, or
22 do we need any more?

1 MR. RUCKELSHAUS: Let me answer your question
2 two ways. I think that the information and support for
3 the recommendations that we are making is, in fact,
4 overwhelming as a result of the hearings we held, the
5 input we have had from all kinds of groups in addition
6 to the hearings themselves, the consultations that we
7 have had with the executive branch of government, with
8 members of Congress and with state and local government
9 officials, that the need for some immediate address to
10 some of the problems that were outlined is intense.

11 I think in the nature of commissions of this
12 kind getting that written down and spelled out in taking
13 all of that enormous detail that we have generated and
14 boiling it down into a persuasive case is what we need

15 to do as a commission, if a significant step such as we

16 are suggesting be undertaken by the President.

17 I think we have been at that, we have been

18 working at it, but I think we have more work to do in

19 order to make that case in as persuasive a way as we

20 can. I do think it is a necessary element and an

21 essential element if the kind of change we are

22 suggesting is going to take place.

1 DR. EHRMANN: Admiral Gaffney?

2 ADMIRAL GAFFNEY: Thank you.

3 Mr. Ruckelshaus, I thought it was a terrific

4 presentation. I agree with everything you said, and

5 very clear and it does not preclude either bold or

6 marginal departmental structure changes that might come

7 later. It allows for that, which I think is great.

8 I have two questions, maybe they are

9 suggestions. The first one was on slide number seven,

10 where it listed the -- that is it, nope back one, that

11 (indicating) one.

12 In the Stewardship Working Group, we have been

13 trying our darndest to make sure that when we talk about

14 "ecosystem" we really mean the entire watershed and not

15 just a few inches inland of the high-water mark.

16 Sometimes we believe the problems in Iowa and Ohio

17 aren't as important to ocean health as those in

18 North Carolina and Massachusetts.

19 I am wondering if the coastal governors, if we

20 might consider getting some non-coastal governors, not

21 all of them maybe but some representative non-coastal

22 governors, to be part of the advisory committee instead

1 of just coastal governors? That is one question.

2 MR. RUCKELSHAUS: Let me respond to your
3 question this way, Paul. I can answer it, but I would
4 encourage other members of our working group to speak up
5 as well if they have some response that even might be
6 contrary to my response, and that would be true of any
7 question.

8 I think your point is well taken. I think the
9 impact of governors outside coastal governors on the
10 ocean, it has been very clear from our hearings, and the
11 situation in the Gulf of Mexico is maybe the most
12 dramatic, but we could just strike "coastal" and put
13 "representation on this committee made up of governors"
14 be part of it.

15 DR. EHRMANN: Mr. Chairman?

16 CHAIRMAN WATKINS: As a follow-up to that, the

17 statute that brought this Commission into being requires

18 us to go with our report when it goes into "The Federal

19 Register" later in the spring to ensure that it goes out

20 to all of the coastal governors for comment. The

21 Commission has already decided that that is too

22 limiting; we are going to have it go out to all

1 governors.

2 It is very clear that the land-to-sea
3 interface issue is not well understood in the country,
4 that oceans don't start at the waterline, it is very
5 clear to us. We intend to go to all governors for
6 comments on this report. I bring it up because it is
7 very much in line with what Paul is recommending here.

8 DR. EHRMANN: Admiral Gaffney?

9 ADMIRAL GAFFNEY: The second question is on
10 the slide just preceding this one, the cabinet
11 secretaries of the ocean agencies. I know this is
12 written up here for brevity, but we had a sidebar
13 conversation in the hallway yesterday where we talked
14 about how you would handle things like the Coast Guard,

15 the Navy and NOAA who might be at the table instead of

16 Secretary Rumsfeld, Secretary Ridge and Secretary Evans.

17 I think you had some ideas on that. I wonder

18 if you might expand on how you would get the

19 representation, the right representation, in the room

20 without letting it be delegated to such a low level that

21 the council would be ineffective?

22 MR. RUCKELSHAUS: Well, I think you put your

1 finger on the delicacy here. We do want to make sure
2 that the council is taken seriously and is broadly
3 representative of all of the interests in the cabinet
4 that have significant responsibilities for the ocean.

5 It does seem to me that in some cases we are
6 going to need to make exceptions to the broad idea of
7 having only cabinet members there, and NOAA and the
8 Coast Guard are obviously two of them.

9 This is just shorthand for who would actually
10 be on the council itself. We would need to expand that
11 and include some non-cabinet members if they were in
12 charge of agencies that are within existing departments
13 that were significant as far as ocean policy is
14 concerned.

15 ADMIRAL GAFFNEY: Would you consider something
16 like, "If the cabinet member didn't come himself or
17 herself that they would have a single designated
18 alternate," rather than just letting it float to see
19 whoever had an open calendar that day?

20 CHAIRMAN WATKINS: Bill, if I could follow up
21 on that, because I think what Paul is bringing up is a
22 good issue. I think we can cover it by saying -- my

1 experience has been that when the issue is raised by the
2 assistant to the president and he is bringing people
3 together, he or she is bringing people together, to
4 address that issue the cabinet secretary that may not be
5 able to attend may not be the most knowledgeable person
6 in that area may well send his undersecretary or his
7 controller.

8 I think as long as it is either the cabinet
9 secretary or the designated representative that has the
10 power of the secretary to make decisions at that
11 conference it could be a variety of people.

12 I think if we phrase it in that kind of a
13 context I think it gets the message through that we are
14 not asking for this to be a phoney system where cabinet

15 secretaries are going to send some sixth-level
16 functionary, but that we expect them to send the person
17 that has the decision-making power of the secretary for
18 that purpose, for whatever purpose the assistant to the
19 president calls this particular council to come
20 together.

21 Does that seem to ring right, Bill, with you?

22 MR. RUCKELSHAUS: I think obviously the

1 executive branch is going to set the council up and
2 making rules like that as they want, but I think you
3 make a very good point, that is, we have got to be
4 flexible enough to allow the most knowledgeable person
5 to be there and at the same time, as you suggest, not
6 have it delegated down to the level where the person is
7 merely a functionary and not capable of making decisions
8 or not authorized to make decisions.

9 DR. EHRMANN: Commissioner Kelly?

10 MR. KELLY: I had two comments, Mr. Chairman.

11 First, I think we have all had experiences in the past
12 where important studies such as this one have been
13 prepared, submitted and then have sat on the shelf for
14 many months or many years.

15 One thing I like about the recommendations of
16 the Governance Committee is that with respect to the
17 White House framework that you are providing you are
18 providing a means to jumpstart this whole process, so
19 that our recommendations don't just sit there in a book
20 on a shelf. I like that very much. I think it affords
21 an opportunity to start moving immediately. I think
22 that is an outstanding element of the structure you are

1 proposing. The other comment I had relates to the
2 discussion of the point that Admiral Gaffney made about
3 trying to bring about as senior a level of participation
4 as possible.

5 Looking at slide seven again with respect to
6 the advisory committee, I think some of the same
7 comments could be made there, that it would be
8 advantageous if we could get the highest level
9 participation in terms of the governors' participation.
10 I think that is all I have. Thank you.

11 MR. RUCKELSHAUS: I think that is a good
12 point. I also think it needs to be made clear in that
13 advisory committee that people are being asked to serve
14 in a representative capacity, so that if we have a

15 business representative, for instance, they are not just
16 there representing themselves, but we would hope that
17 they would bring the perspective beyond their own
18 particular business interests to the deliberations of
19 the advisory council.

20 Now, these councils sometimes are made up of
21 wise people and sometimes made up of representatives of
22 interests. I think our recommendation, at least at this

1 stage, for the advisory council is that it be primarily
2 representatives of interest. We would hope that they
3 would be wise people at the same time, not just there
4 because of their own knowledge and background unrelated
5 to any interest that they might represent.

6 DR. EHRMANN: Mr. Rasmuson?

7 MR. RASMUSON: I would like to follow that
8 through. Bill, you know, the reason why we were set up
9 was that Congress perceived, and rightly so, the system
10 was breaking down, that there was too much
11 contentiousness and volatility in the U.S. with various
12 NGOs fighting one another. We are trying to fix it as
13 best we can.

14 The problem that I am trying to wrestle with,

15 and I think a lot of us hopefully are wrestling with it,
16 is the role of the advisory committee on the more
17 regional basis, what power would they have? Obviously,
18 if they are just strictly advisory, they are going to
19 come and talk a lot. They are going to say, "I like
20 this," or, "I don't like that." Are they are going to
21 have active control over or be able to create litigation
22 against some existing, say, fisheries councils or

1 whatever? That would further create more
2 contentiousness. I am trying, and I think we all want
3 to streamline this process. My concern is if we have
4 too many committees, are we streamlining it?

5 MR. RUCKELSHAUS: The advisory committee, as I
6 would envision it and I hope others speak up, would be
7 just that, it is an advisory committee. There are no
8 powers to intervene in any official way or any legal
9 way.

10 It tries to deal with one of the problems you
11 mentioned, Ed, and that is, we do tend to divide among
12 interest groups when we are dealing with ocean issues or
13 other issues in this society, trying to get these
14 disparate groups together, or interests together, to

15 discuss issues of the kind that face the country.

16 The assistant to the president and the

17 National Ocean Council and all of those agencies will be

18 dealing with, you would hope that they would begin to

19 break down some of those divisions that exist between

20 groups and get them more supportive of a national policy

21 moving forward.

22 If we are going to talk about developing a

1 more comprehensive coastal zone process and regional
2 ocean councils, these kinds of advisory committees can
3 be very helpful in both advising the National Ocean
4 Council and the assistant to the president of what
5 should be in a process of that kind, what should be in a
6 statute of that kind, and to help identify groups that
7 should be contacted and people that should be involved
8 in the deliberations about moving the whole thing
9 forward.

10 The purpose of the advisory committee really
11 is to get at what I understood to be your first concern,
12 and that is, the division of the society into these
13 various groups and various interests that don't talk to
14 one another and don't see where their interests might be

15 harmonized if we were to move forward with a wise

16 policy.

17 MR. RASMUSON: Well, that is all well said and

18 done. I agree with that, wise people generally make

19 wise decisions, but the problem as I see it, and I don't

20 want to usurp Paul Sandifer's stewardship, but in the

21 very end he says that, "If the Regional Fish Management

22 Council identifies impacts to fisheries that involve

1 other sectors," wherever that might be, that can be
2 anything, "they would present their analysis to the
3 regional councils for action." In other words, the
4 regional council would have authority over the fish
5 councils, if they felt there was endangerment to some
6 part of the ecosystem that some NGO felt responsible
7 for.

8 MR. RUCKELSHAUS: You are referring to the
9 next presentation, the case of what we would do with
10 these regional ocean councils and how they would be
11 embodied in a statute that would be developed over a
12 several year period by the National Ocean Council and
13 the assistant to the president.

14 But I have not heard anybody so far, please

15 anybody in our group speak up, suggest that regional
16 ocean councils should supplant the fishery management
17 councils. The question of whether the fishery
18 management decisions should be included in the
19 deliberations of an ocean council, a regional ocean
20 council, whatever its functions might be is a different
21 question from saying that council, the regional ocean
22 council, should supplant the responsibilities and duties

1 of the fishery management council. I have yet, maybe
2 there is some, but I have yet to hear any support for
3 that.

4 MR. RASMUSON: Well, I will just read you the
5 last of it. Maybe I will let Paul address that when he
6 comes to it, then.

7 DR. EHRMANN: Yes. We will have an
8 opportunity for more discussion, I think. On the slides
9 that describe the work groups deliberations on regional
10 councils, there are a whole host of unresolved issues
11 that still need the input of the full Commission. We
12 will come back to that and have more opportunity to talk
13 about the kind of scope and structure of those regional
14 councils as we get to the second part of the Governance

15 Working Group.

16 Let me go to Dr. Rosenberg.

17 DR. ROSENBERG: Thank you. I have three

18 comments, some of which I think relate to Ed's concern.

19 Before I get to that, the first one is related to the

20 issue of consolidation that you mentioned, Bill.

21 Clearly, this proposal doesn't preclude agency

22 consolidation or functional consolidation within

1 agencies. I think we all understand that and are
2 continuing to work on looking at the consolidation of
3 functions.

4 I would just point out I think for clarity
5 that no matter what consolidation you do you have to
6 have this kind of an entity in place, because I cannot
7 imagine a system where you would be able to consolidate
8 all functions related to the ocean in a single agency or
9 entity. Irrespective of what the consolidation is, or
10 if there is any, it seems to me that you have to have a
11 coordinating function, and it needs to be at this level.

12 I think it is worth bearing in mind that, in
13 addition to the fact that we haven't gotten to the
14 consolidation piece, even if we do that and we do it

15 incredibly well, you have to have a council. I think
16 the Act, the Oceans Act, actually recognizes that up
17 front so there is no dispute there.

18 I think the real question is, What authority
19 does this council have, and, by extension, what
20 authority does the assistant to the president have?
21 That relates to Mr. Rasmuson's point, extending down
22 into the regions, we haven't really talked about the

1 regions yet but even at the national level, what
2 authority does the council have and how does that relate
3 to advisory committees?

4 It is at least my understanding that we are
5 not talking about, certainly in the first phase but
6 possibly not even in the second phase, supplanting
7 existing statutory authority because the agencies still
8 will have their missions. Someone will still have to
9 have the authority for fisheries management within an
10 agency, an operational agency.

11 It is unlikely that is to be supplanted by any
12 council because you still have to have somebody doing
13 the actual implementation on the water in the same way
14 as you have to have somebody developing a fishery

15 management plan in a region, and it can't be such a
16 broadly based body that they don't know the details of
17 specific fisheries.

18 That comes back to the issue of, What
19 authority does the council have? We had extensive
20 discussion in the working group that that authority
21 relates to coordination of budget, certainly
22 coordination of the work called for under the existing

1 statutes, and trying to reduce the conflict in terms of
2 mission.

3 I don't think it is so much a matter of
4 raising concerns that -- I don't think it has anything
5 to do with NGOs. I think it has really much more to do
6 with government agencies. I don't think it is so much
7 an issue of raising concerns that divert the process
8 from fishery management or any other particular
9 activity.

10 It seems to me much more the case that you are
11 ensuring that you don't get into some of the conflicts
12 that we get into now because you have missions that
13 really are disparate and are not brought together
14 sometimes even with a single agency to address an

15 overall management problem.

16 So, I am assuming that this council, and by

17 extension the advisory committee, is really a problem

18 solving committee and that it is also a planning

19 committee for how to stay out of those kinds of

20 conflicts. However, we shouldn't view it as supplanting

21 statutory authority, unless Congress decides to change

22 that statutory authority in any particular case.

1 For the advisory committee, I do think that we
2 should think broadly about an advisory committee. It is
3 very likely that advisory committee would have
4 subcommittees on science, for example, on living
5 resources to make recommendations on how to deal with
6 emerging problems to the council so that that can be fed
7 back out to the agencies.

8 Obviously, each agency, state or federal for
9 that matter and any other branch of government, has
10 numerous advisory committees. The question here seems
11 to be totally related to cross-cutting issues, and so it
12 is important to make sure that that focus is maintained
13 in both the council and the advisory committee.

14 I mean, I am presuming that the council's

15 intent is not to, you know, tell anyone of the specific
16 agencies how to do their job. You know, "Let's go tell
17 the Navy how to be the Navy." I don't think that would
18 get a very good reception. But it clearly would try to
19 address the issues that cross agencies.

20 As long as it continues to be and it is
21 mandated it is phrased in that way, then I actually
22 don't think that you are getting into the problem of

1 litigation. It is very important to be clear that that
2 is the intent and that there is authority with regard to
3 budget and coordination, that that is the focus area,
4 because otherwise it is just a talking group.

5 DR. EHRMANN: Okay. Dr. Sandifer?

6 DR. SANDIFER: Thank you. My compliments to
7 the Governance Working Group. It is a good start.
8 Starting with the advisory portion, and then I will come
9 back to the overall plan, I personally like the idea of
10 an advisory committee, a broad one, as Andy just
11 described it, with subcommittees.

12 Relative to federal agencies, I run a small
13 state agency, but we have 10, maybe 11 formally
14 constituted advisory committees and use them very, very

15 regularly to do exactly that, get public advice, not
16 just from the members of the advisory committee or
17 committees themselves, but allow those committees to
18 hold all kinds of informal public meetings to provide as
19 much or get as much public input as possible.

20 As a result, I think we as an agency are less
21 involved in litigation than we would otherwise be
22 because we do a good job of threshing out issues and

1 sometimes thrashing them in public forum and get a great
2 deal of public input. I think even at a national level
3 this kind of advisory body could contribute very
4 significantly to providing opportunities for the
5 interested public to have some say and into the
6 direction and management implementation of ocean policy,
7 and perhaps head off some otherwise litigious
8 circumstances. So, I think this is something that could
9 be very, very good.

10 The second thing I would like to remind us all
11 is this is to be a phased process, as I understand it.
12 Mr. Ruckelshaus, I am very pleased with it from the
13 standpoint of kick-starting something. However, Phase I
14 is not an endpoint; Phase I is a beginning point.

15 It has to be done extremely well if we are
16 going to get to Phase II, which the only function of
17 Phase II is to actually get to Phase III where we have a
18 statutory role, a new statute in place with a new
19 structure, frankly, in place for oceans policy and
20 implementation of that policy.

21 Let me go back to something I believe began
22 with Admiral Gaffney and several others have said and

1 reiterated. It is extremely important that we have some
2 kind of high-level attention to this process from the
3 beginning. Absent that high-level attention, both in
4 the White House and in any council that is put together
5 and advisory body, Phase II will not succeed and,
6 therefore, there will be no Phase III.

7 I think, Mr. Ruckelshaus, I would like to know
8 a little bit more about exactly what Governance is
9 thinking of in terms of the placement in the White House
10 of this special assistant to the president, whether it
11 would be a truly new structure within the White House,
12 or would it be expected to be under some existing office
13 and therefore not have the clout that is needed?

14 Exactly what are you thinking of when you

15 mention the term of "special assistant to the president"

16 for this area? And, what chance have we got of getting

17 somebody in there with enough visibility and clout to,

18 in fact, kick this along a little ways?

19 MR. RUCKELSHAUS: Well, if I could answer all

20 of those questions, we would be home free. They are

21 good questions. I think they underscore what was

22 unstated in my opening remarks, and that is, without the

1 strong support of the President Phase II isn't going to
2 happen, and, therefore, neither is Phase III.

3 The institutional address that we are talking
4 about is what we believe is necessary to demonstrate to
5 the country and, in particular, to the rest of his
6 administration that this is a serious undertaking, and
7 that we have for quite some time now under-addressed a
8 lot of very difficult problems relating to our national
9 ocean policy.

10 The ocean is being affected by that in a
11 number of ways that our Commission has been listening to
12 now for the last several months. Unless something of
13 this nature that we are suggesting is undertaken, which
14 makes a clear demonstration that the President is behind

15 change of the nature that we are suggesting, it won't

16 happen.

17 It may be that the Congress can step up and do

18 it, and if they do, fine. My own feeling is that my

19 experience is, just as you suggest, that unless there

20 are very strong signals from the chief executive himself

21 that this is a terribly important undertaking and one

22 that he is behind and changes that he wants to see

1 effected, it won't happen.

2 This institutional arrangement that we are

3 suggesting is merely one way of demonstrating that level

4 of commitment and support. There are, undoubtedly,

5 other ways. This makes it very clear. It gives an

6 institution the responsibility for following up on the

7 recommendations of the Commission and bringing them to a

8 conclusion, in the case where they are needed, in the

9 form of statutory change at the end of Phase I.

10 That isn't the only thing that this council

11 can do. There are some things that can be undertaken

12 immediately. There is nobody to undertake these things,

13 a lot of the things that we are considering recommending

14 right now.

15 So, the assistant to the President is a very
16 strong and powerful office in the White House now and
17 can help effect these kinds of changes with
18 the support of the President. That is why we have made
19 the recommendation.

20 DR. SANDIFER: Mr. Ruckelshaus, I agree with
21 you. I think the council itself can move ahead, but the
22 council will require leadership. The council could move

1 ahead even absent some quick statutory changes, but the
2 only way that is going to be effective is if there is
3 clear interest and leadership.

4 That means that the special assistant to the
5 president is incredibly important here, if we are going
6 to move in that direction in order to get something
7 moving immediately, then try to deal with codifying it
8 through a statute that carries forward from
9 administration to administration.

10 My concern was simply to make sure that we are
11 all understanding that we are talking about something
12 that would not be buried under several layers of White
13 House bureaucracy any more than we are talking about
14 burying it under several layers of any agency

15 bureaucracy. Am I correct, you are talking about a
16 high-level position in the White House; is that correct?

17 MR. RUCKELSHAUS: Yes. I mean, there are
18 several ways of burying something like this. If you
19 bury it, it won't go anywhere, you are right.

20 DR. SANDIFER: More ways of burying it than
21 getting it up front, I am afraid.

22 MR. RUCKELSHAUS: Than resurfacing it.

1 DR. EHRMANN: Dr. Muller-Karger?

2 DR. MULLER-KARGER: Thank you, Bill. I

3 appreciate the work that you have done on this paper. I

4 do have the same questions that have been raised. I

5 wanted to see if you could explain a little bit how one

6 person, this executive assistant to the president, would

7 deal with the 9,214 agency heads that basically are

8 trying to protect their budgets? How do you give this

9 person some "teeth"?

10 MR. RUCKELSHAUS: Well, Frank, one thing, I

11 don't know how to draft a recommendation or a statute if

12 we assume that people are not going to act in good

13 faith. If the President says to his appointees -- his

14 cabinet members, his agency heads -- who have been

15 appointed by him and confirmed by the Congress, "This is
16 important to our administration, these are changes I
17 would like to see effected immediately, these are
18 changes I would like to see examined with our state and
19 local partners and citizens, and I would like to see
20 statutes come forward that address these problems in a
21 more comprehensive and effective way," if his cabinet
22 heads are more interested in protecting the turf of

1 their individual departments and agencies, they
2 shouldn't be cabinet heads.

3 I don't know how to draft any kind of
4 recommendation or statute or order that avoids people
5 acting in bad faith who aren't doing what the person
6 that appointed them who was elected by the people of
7 this country asked them to do. If that is the way they
8 act when the President says, "This is a very high
9 priority and I want you to act accordingly," then we
10 ought to get different people to run those agencies.

11 DR. MULLER-KARGER: At the moment, we have a
12 similar structure not too different in the NOPP and the
13 NORLC, "National Ocean Research Leadership Council."
14 How is this going to be different? How are we going to

15 get results from this new thing?

16 DR. EHRMANN: Admiral?

17 MR. RUCKELSHAUS: The Chairman knows a lot

18 about that.

19 CHAIRMAN WATKINS: As the father of NORLC and

20 the Oceans Act of 1996, it won't work now. This is what

21 we are recommending, Frank, to change it so the NORLC

22 can become the National Ocean Council under which you

1 have a subcommittee for research that is basically the
2 NORLC today, but it has the power coming from the
3 White House and the OMB director in budget guidance that
4 says, "I want to do these things, you guys figure out
5 how to do it, and come back and put it in your budget
6 and I will send that to the bill and support it." I
7 have seen it happen time and time again.

8 I echo what Bill is saying. I mean, we have
9 been in the game. When the president wants to do
10 something, as was the case when I was Secretary of
11 Energy, to take \$6 billion out of defense and put into
12 radioactive waste management, we did it. Defense hated
13 it but the advisor to OMB, in this case the President of
14 the United States, said, "Do it." It was simple. You

15 know, we can't legislate that, we can't direct that.

16 What Bill is saying is that we are leaning on

17 the fact that we can make a persuasive case to the

18 President that urgent action is needed. Certainly, on

19 his proposal on the Ocean Council, which is made up of

20 the federal agencies, will get guidance from a very key

21 person who listens to the president and the president

22 listens to him or her, and we get it done. So, we have

1 to do everything we can to make this persuasive case so
2 the president says, "I want to do something."

3 DR. MULLER-KARGER: The other question that I
4 had is that we have talked a lot about the executive
5 side of government. Should there be some recommendation
6 on organizing Congress better along these lines as well?

7 MR. RUCKELSHAUS: Any significant, maybe even
8 any insignificant, statutory change will necessitate
9 congressional reorganization. That is one reason why it
10 is so hard to get is because the congressional
11 committees that oversee these individual agencies or
12 pieces of agencies if they lose then to another
13 congressional committee have their own control, power
14 base reduced. All congressmen and senators being human

15 beings they resist that kind of reduction.

16 Again, that is one of the reasons why we are

17 suggesting that in the case of statutory change that we

18 take the time to build a constituency, discuss it with

19 the Congress so that by the time the bill is created

20 that will result in altering a statute of the past,

21 there is significant support for that bill. If you

22 don't generate that support ahead of time, the chances

1 of getting these kinds of changes are not very great.

2 There used to be, Frank, what was called the
3 Executive Reorganization Act where the President could
4 simply move the boxes around inside the agency or inside
5 the government and submit them to the Congress and if
6 they didn't veto it within 90 days it became law. You
7 can't create a department that way, you can't create a
8 secretary, but you could create an agency like EPA.
9 That is where EPA came from.

10 That law no longer exists. You can't do that
11 now. So, in order for these kinds of reorganizations to
12 take place, you have to have statutory change and you
13 have to go up and consult with the Congress and make
14 sure that they are supportive of it. Even if they

15 aren't, you try to get it through in any event, but it
16 is a difficult undertaking. That reorganization that
17 you are suggesting take place will happen within the
18 context of the statutory change that has any
19 consolidation effect.

20 DR. MULLER-KARGER: That is implicit.

21 CHAIRMAN WATKINS: It has to, you can't
22 consolidate without doing it.

1 MR. RUCKELSHAUS: Also, I think we have
2 experience on the Hill on multiagency interest items
3 that go forward as a package deal. There are many
4 examples of this. In the case of building the Ocean
5 Policy Act of 1996, the House of Representatives held
6 joint hearings between three key committees -- Armed
7 Services, Natural Resources, and I forget the other one
8 right now -- but they held them because we went across
9 multiple jurisdictional lines in the Congress. I
10 thought it was very well received.

11 I think if the Congress receives an integrated
12 budget package, for example, on carrying out the
13 recommendations of this Commission, they have no choice
14 but to talk to each other. If they pull the link out of

15 the chain in any one of those agencies that is germane
16 to the outcomes of carrying out these recommendations,
17 then multiple agencies have to go to the Hill and
18 complain because they are all leaning on each other in a
19 way -- this cross-cutting that Andy talked about -- that
20 is very important. That is the real issue here that we
21 are talking about.

22 I don't see a lack of receptivity on the Hill

1 to do that. However, unless the administration comes in
2 and OMB itemizes those things that are in cross-decked
3 fashion for research or for application or operations or
4 whatever, unless there is a proposal along those lines,
5 the Congress is going to sit there in their normal
6 fiefdom lineup and do what they have done since the
7 nineteenth century.

8 I think that they will change as the
9 administration demands this horizontal integration of
10 multiple agency and multidisciplined area items like
11 this. That is really what we are all about here much as
12 it was in homeland security. They said, "We've got to
13 do something new in the way we manage things." That is
14 what we are talking about here. I think it can happen

15 over time.

16 However, for this Commission to recommend

17 jurisdictional lines changes on Capitol Hill, I think is

18 premature, probably unnecessary and that will come, in

19 my opinion, with a commitment on the part of the

20 administration that this is an important cross-cutting

21 issue and it needs cross-cutting attention on

22 Capitol Hill, both in authorization and in

1 appropriation.

2 DR. MULLER-KARGER: Thank you.

3 DR. EHRMANN: Any other final comments from

4 any commissioners to the Governance Working Group at

5 this point on this topic?

6 (No verbal response.)

7 DR. EHRMANN: Let me just summarize a few key

8 points, and then I will ask the Governance chair to

9 introduce the next part of their report.

10 Clearly, I think it sounds like the Commission

11 has a good level of comfort with the recommendations,

12 the preliminary recommendations, forthcoming from the

13 working group on this overall three-part framework, a

14 number of very helpful suggestions that I know the

15 working group will take into account and the staff as

16 they go forward to further flesh out these ideas.

17 I want to emphasize the point that was made in

18 the initial presentation and echoed by several

19 commissioners that this does not preclude, in fact in

20 many ways it is intended to potentially support, other

21 recommendations that might be forthcoming from the

22 Commission as it relates to integration, reorganization,

1 consolidation, and other options that are going to be
2 explored by the Commission as it relates to ocean
3 policy. This is meant to be a very critical strategic
4 first step.

5 Second, that the appointment process needs to
6 reflect the need for high-level appointments as well as
7 high-level participation in these various committees,
8 both the National Ocean Council, the federal officials,
9 as well as any external advisory committee. It needs to
10 also ensure that high-level participation.

11 Third, that this have a problem solving and
12 problem anticipation flavor to it; that this is not
13 being put together to try to create more conflict and
14 litigation, et cetera, but to try to get ahead of some

15 of these issues and bring cross-integration and
16 collaboration among the agencies together on ocean
17 policy in a way that has not existed in the past; and
18 that issues and purview such as budget authority,
19 et cetera, that would be vested in this group is going
20 to be very important to make sure that that happens.

21 I think there are a number of important points
22 perhaps running all through this, this last couple of

1 comments about the need for strong leadership from the
2 administration, that this kind of approach is really
3 going to serve the jumpstart function that the
4 Commission clearly intends it to, as well as obviously a
5 partnership with leaders on the Hill, to make sure that
6 the Congress is supportive and working in partnership
7 with the administration in those steps. I think those
8 are a number of the points that we heard on that
9 discussion.

10 I would like to move now and ask the -- yes,

11 Mr. Chairman?

12 CHAIRMAN WATKINS: Just as follow up for those

13 in the auditorium here, what was said here is on the

14 mark, but I also want to go back to the fact that this

15 doesn't preclude future options.

16 DR. EHRMANN: Yes.

17 CHAIRMAN WATKINS: The other working groups

18 have not yet lobbed their missiles into the Commission

19 as a whole. We are going to hear some today. We need

20 to listen to them because this strawman, we call it

21 straw -- well, I guess you can't call it "strawperson"?

22 DR. EHRMANN: Strawperson.

1 CHAIRMAN WATKINS: This strawperson is just
2 that. When we begin to move things into our
3 recommendation and its structure, how to implement and
4 carry these things out, we may find that we have to
5 morph into some other kind of a concept.

6 I want to make sure everybody is clear on
7 that, that this is an approach now that allows the other
8 working groups to use the common language here at this
9 point in time and remove their frustrations on how to
10 write their papers, so that there is a context within
11 which they are writing.

12 In the second item that is just about to come
13 up, we will go even further into the larger, broader
14 governance structure that allows them, then, to prepare

15 their papers in a new way for the regional concepts, the
16 ones that are out there that we have heard so much about
17 in our hearings across the country that need to be
18 listened to.

19 We are reiterating again and moving in a
20 direction that allows everybody to kind of pull together
21 at this point, but we may want to wake up and say, "Oh,
22 my God, we are on the wrong structure. We may need a

1 different kind of a concept that makes more sense." I
2 just bring that up again to emphasize the fact that we
3 are in that kind of an iterative "embryo" period right
4 now, and we haven't come to grips with the final one,
5 until we hear what the other working groups have to say.

6 DR. EHRMANN: Thank you, sir. Also, just to
7 tie that back to a point you made in your opening
8 comment and again to be clear for the members of the
9 public, the overall process here, as we said, is to
10 provide an opportunity in this discussion, as we did in
11 the last deliberative public session, for the full
12 Commission to provide feedback on these workgroup
13 reports.

14 When we get to the, when the Commission gets

15 to the, end of the process and has a draft report and
16 does its final decision making, that, too, will take
17 place in a public setting like this. There will be the
18 opportunity for both the commissioners and the public to
19 see all of the pieces fit together, and the kind of
20 iterative process that the chairman referred to will be
21 clear to everyone at the time of the final
22 deliberations.