

Governance Issues

1 U.S. COMMISSION ON OCEAN POLICY

2

3

4 - - -

5

6 FIFTEENTH PUBLIC MEETING

7

8

9 - - -

10

11 THURSDAY, APRIL 3, 2003

12 1:00 P.M. to 5:40 P.M.

13

14 - - -

15

16

17

18

19

GEORGE WASHINGTON UNIVERSITY

20

800 Twenty-First Street, N.W.

21

Grand Ballroom

22

Washington, D.C.

## 1 C O N T E N T S

## 2 COMMISSIONERS:

3 Admiral James D. Watkins, USN (Ret.), Chairman

4 Mrs. Lillian C. Borrone

5 Dr. James M. Coleman, Ph.D.

6 VADM Paul G. Gaffney, II, USN

7 Prof. Marc J. Hershman

8 Mr. Paul L. Kelly

9 Dr. Frank E. Muller-Karger, Ph.D.

10 Mr. Edward B. Rasmuson

11 Dr. Andrew A. Rosenberg, Ph.D.

12 Mr. William D. Ruckelshaus

13 Dr. Paul A. Sandifer, Ph.D.

14

## 15 ALSO PRESENT:

16 Thomas R. Kitsos, Ph.D., Executive Director

17 John Ehrmann, Facilitator

18

19

20

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

P R O C E E D I N G S

(9:00 a.m.)

CHAIRMAN WATKINS: The Commission on Ocean

Policy will now come to order.

This morning's agenda is to continue our discussion of policy option presentations by the chairs of the Working Group that we set up initially and that we've already heard the complete presentation of all issues for the Research, Education, and Marine Operations Working Group. We've heard about half of those from Stewardship. We had an announcement by the chair of the Governance Committee yesterday about what he would be presenting today. They include five topics:

National Ocean Policy Framework;

Regional Ocean and Coastal Governance;

Federal Agency Reorganization;

18                   Offshore Oil and Gas, Existing and  
19   Emergency Uses; and, finally,  
20                   Coastal Management.  
21                   As you can imagine, these have been  
22   difficult topics for us to put our arms around. I

12706.A  
JWBeach

1 think we're rapidly coming to grips with these very  
2 important issues that are at the forefront of our  
3 thinking as we make recommendations this fall to the  
4 President and to the Congress about our work.

5 So with no other need for any other  
6 business items this morning, we will proceed directly  
7 into the Governance items and I will turn the mike  
8 over to Bill Ruckelshaus and our facilitator, John  
9 Ehrmann, to begin to discuss the first one which is  
10 National Ocean Policy Framework.

11 Bill?

12 COMMISSIONER RUCKELSHAUS: Thank you, Mr.  
13 Chairman.

14 I would call your attention to the first  
15 slide.

16 (Slide.)

17 My intent this morning is to go through  
18 one through three all at once, and then take

19 question, then cover four after we are finished with  
20 those first three items. Then number five I'm going  
21 to ask Commissioner Hershman to lead the discussion  
22 on that because he has the most knowledge about that

12706.A  
JWBeach

1 subject and has spent the most time on our Working  
2 Group working on that issue.

3 I would encourage all, as we did last  
4 night when we worked late into the night--while the  
5 rest of you were out gallivanting around--I would  
6 encourage the other members of our Working Group to  
7 chime in at any time and elaborate on what I've said,  
8 or correct any mistakes.

9 This, as has been true in the past, is a  
10 work in progress. None of what we are saying as of  
11 this point is sunk in cement. It's all possible to  
12 be changed. As we near the end of our work,  
13 obviously it is becoming clearer what we are going to  
14 recommend, but by no means have we brought all of  
15 this to the ground and we are looking forward to a  
16 discussion with the other members of the Commission  
17 this morning so that we can refine our  
18 recommendations and make them as effective as

19 possible.

20                   The first item, Gerhard, if you will move

21 the slide, is I'm going to go over what we have

22 actually tentatively agreed to in the past just in

12706.A  
JWBeach

1 order to keep everybody in the same context as we  
2 discussion these issues.

3 (Slide.)

4 Because without understanding this ocean  
5 policy framework or what we're recommending there, it  
6 can get quite confusing if you try to dive in in the  
7 middle of it. That's why I want to go through these  
8 first three where we talk about the Ocean Policy  
9 Framework, the governance implications for regions of  
10 that Ocean Policy Framework, and then the work that  
11 we've done to date on consolidation, recommendations  
12 for consolidation, and where we are.

13 The first paragraph is fairly clear. We  
14 are recommending that the President and/or the  
15 Congress--what we have there is "or"; I think "and"  
16 is a better word along with "or" to describe what  
17 we're recommending. This is a change. If the  
18 Congress wants to step in and, working with the

19 Administration, develop a National Ocean Policy

20 Framework, well that would be all to the better.

21 The main thing to remember is what we're

22 trying to do here is get movement. We're trying to

1 get forward motion. And relying completely on  
2 statutes to achieve motion can take some time.

3 I would simply call your attention to a  
4 number of such recommendations that were made under  
5 Tab 3(b) where the staff has helpfully collected  
6 those suggested either consolidations or initiatives  
7 in this area in the past and how difficult it is to  
8 get movement on them.

9 What we think is that movement is terribly  
10 important, and the way to get that is to encourage  
11 the President by Executive Order, or by the Congress  
12 by statute, to designate an assistant to the  
13 President, create an Office of Ocean Policy in the  
14 Executive Office of the President, and a National  
15 Ocean Council.

16 And, in addition, very importantly, an  
17 Advisory Council made up of a variety of local and

18 other stakeholders who can help the Council in its  
19 work.

20                   When I speak throughout what I'm going to  
21 say about the "National Ocean Council," I mean this  
22 whole framework. I don't want to repeat "the

12706.A  
JWBeach

1 framework" every time I mention the National Ocean  
2 Council. So when I say "the Council," think in your  
3 own mind of the entire framework and pieces of it,  
4 because they are all of a piece.

5 And if I'm just talking about the Council,  
6 I'll mention that at the time.

7 The Office of Ocean Policy that we have  
8 recommended be created in the Executive Office of the  
9 President is a designated assistant to the President.  
10 He would be supported by staff, and that same staff  
11 would support the National Ocean Council as well.

12 Next slide, Gerhard.

13 (Slide.)

14 Again, this simply makes the same point,  
15 except the composition of the Council itself is made  
16 up of Secretaries and Heads of Agencies of the  
17 important and significant agencies that relate to the  
18 ocean.

19                   The second bullet simply relates to that  
20   Advisory Council, FAC Advisory Council I mentioned,  
21   and discusses the membership of the Council.  Next  
22   slide please, Gerhard.

12706.A  
JWBeach

1 (Slide.)

2 Now I'm going to go through a number of

3 functions that the National Ocean Council would have,

4 and I will try to not go through each of these in

5 detail. They sort of speak for themselves. But it

6 is important for us to bear in mind that these are

7 the kinds of functions that we would envision the

8 National Council having. By no means do I suggest

9 this list is exhaustive. We can add, modify, or

10 subtract functions from the Council as we see fit at

11 this time, and obviously if the Council is created

12 either by statute or by Executive Order, the

13 authorities and powers given to the Council will be

14 within the discretion of the Executive Branch or of

15 the Congress.

16 That first bullet there under policy

17 formulation, program implementation, and reporting:

18 Program Implementation does not suggest that the

19 Council would have an operational role. In fact, we  
20 would see that as very rare that the Council would  
21 itself operate in a formal manner. It would be more  
22 likely that they would designate a lead agency or

12706.A  
JWBeach

1 department to perform that implementation role or  
2 operational role. But guidance in the implementation  
3 and continued improvement of our recommendations, or  
4 Commission's recommendations for broad national  
5 guidance is really one of the chief and early  
6 functions that we want the Council to have.

7 I will discuss later, as I mentioned,  
8 where we are now on recommendations about any  
9 consolidation or movement of functions from one  
10 agency or department to another, or even creation of  
11 separate agencies, but we do see as a heavy  
12 responsibility of this Council that they take our  
13 recommendations and apply the principles and  
14 recommendations that we make in their deliberations  
15 on consolidation.

16 This kind of Council can certainly have a  
17 very optimal position from which to view the possible  
18 consolidations that will take place. We would give

19 to them that responsibility to have a constant  
20 oversight of how existing structures are working and  
21 what new structures might work better. Next slide  
22 please, Gerhard.

12706.A  
JWBeach

1 (Slide.)

2 These bullets again sort of speak for  
3 themselves. One of their charges would be to look at  
4 redundancies, overlaps, fragmentation, and develop  
5 policy positions needed to resolve conflicts that  
6 exist, fill gaps, address new and emerging issues.  
7 That is one of their chief responsibilities is where  
8 they see problems existing in agencies is to pull the  
9 principles together and make sure that those problems  
10 are addressed in an efficient and effective manner.

11 We are simply relying on the individuals  
12 themselves. The principals are the people in those  
13 Cabinet or Agency locations to accomplish this  
14 themselves. We've heard some examples in front of us  
15 of many cases in which that has happened.

16 We have also heard some situations where  
17 it has not. Human beings being what they are, the  
18 tendency is to let the status be quo and not make the

19        necessary changes to either fill in gaps or to

20        resolve conflicts.

21                        They would have the responsibility of

22        reviewing and assessing progress of individual

12706.A  
JWBeach

1 agencies, even making periodic reports; participate  
2 and initiate resolution of interagency policy  
3 disputes; and seek to achieve vastly improved--that  
4 word "vastly" is chosen on purpose because there is  
5 much room for improvement in terms of coordination  
6 among agencies with ocean responsibilities that are  
7 reflected in many of our other recommendations. Next  
8 slide, please.

9 (Slide.)

10 Again, guide the development and  
11 implementation of a national research plan. We  
12 discussed that yesterday as to the National Ocean  
13 Leadership Council, I think it's called, that would  
14 be part of a subsidiary of this Council. This slide  
15 here does not have that name right, but we will  
16 certainly get it right before we're finished.

17 We would guide the development and  
18 implementation of a data information management

19 system. That wouldn't necessarily be the location of  
20 that system, but it would be the responsibility of  
21 that Council to see that it exists and that it is  
22 easily accessible to all of the potential users.

12706.A  
JWBeach

1                   The Council would create task groups  
2                   formed to address specific ocean and coastal  
3                   problems. We have identified in the past problems  
4                   coming at us and, because there are several agencies  
5                   that have responsibility for the address of those  
6                   problems, often it is very hard to get out in front  
7                   of them. The tendency where nobody is really in  
8                   charge is to be reactive.

9                   If this Council has the responsibility of  
10                  pulling a coordinated set of agencies, appointing a  
11                  lead agency--which we recommend later--to oversee a  
12                  given problem and make recommendations about how it  
13                  should be addressed, that could be very helpful in  
14                  getting out in front of these problems and providing  
15                  them a more coordinated approach to their address.

16                  I have to keep using the example of the  
17                  salmon, but it's a very good one. We knew years  
18                  ahead of time that that fish was going to be listed,

19 and very little was done to ready the region or the  
20 various agencies for that eventuality until the fish  
21 was actually listed. And we've been playing catch-up  
22 ever since.

12706.A  
JWBeach

1                   It is a vehicle. This is a little  
2                   redundant here. It's a vehicle for harmonizing the  
3                   actions of the federal and state agencies during the  
4                   development and planning process in support of the  
5                   Commission's recommendations. That is a little  
6                   redundant language and, as I say, these are not  
7                   exhaustive nor is the language itself sunk in cement.  
8                   Next one please, Gerhard.

9                   (Slide.)

10                  The development and implementation of a  
11                  national program for the assessment of state  
12                  ecosystems and their capability of providing the  
13                  critical goods and services that those ecosystems  
14                  produce is an important function. In fact, these  
15                  first three bullets all relate to the role we see for  
16                  the Council, particularly at the beginning, in  
17                  contributing to the development of ecosystems such as  
18                  that second, although it's a little different. It's

19 working more with the State Department on  
20 international issues. But the third bullet again  
21 relates to ecosystems and the necessity for putting  
22 planning and management units and regional government

12706.A  
JWBeach

1 units together in dealing with ecosystems and  
2 planning for their address.

3 And as I mentioned before, that last  
4 bullet is that periodically they would report on the  
5 state of the nation's oceans and coast so that we  
6 have not only a monitoring system but some way of  
7 reporting to the public, the President, and the  
8 Congress on how we are doing against those measures  
9 that should be put in place to determine whether  
10 progress is being made. Next slide.

11 (Slide.)

12 As it relates to the budget, this has  
13 changed somewhat from our earlier recommendation that  
14 they actually certify the reaction of the Council to  
15 the President after the budget is prepared.

16 It was felt by many that that was a power  
17 unlikely to be given to any council in any event, and  
18 it seems to us fits more carefully into the budgetary

19 process and, nevertheless, gives the assistant to the  
20 President consultation with the Director of OMB and  
21 the National Ocean Council itself the ability to  
22 identify programs that contribute significantly to

12706.A  
JWBeach

1 the national policy for ocean and coastal resources,  
2 provide advice to the agencies for such programs.

3 And then, provide advice to the Director  
4 of the OMB on the levels and uses of funding in the  
5 agencies for coastal and resource related activities.  
6 That puts them more in an advisory role than the sort  
7 of antagonistic role they were in when they were  
8 actually charged with certifying their reaction to  
9 the budget. Next slide, please.

10 (Slide.)

11 The development of a regional framework is  
12 one of the Council's first assignments, and most  
13 important assignments. In this assignment, there is  
14 a necessity to work very closely with the appropriate  
15 state, local, territorial, and tribal interests, as  
16 well as nongovernmental and business organizations,  
17 farmers, in developing a planning process for an  
18 improved system of ocean and coastal governance that

19 would include the creation of regional ocean  
20 councils.

21 As we say here, these regional councils in  
22 conjunction with the National Ocean Council would

12706.A  
JWBeach

1 develop guidance for regional ecosystems management  
2 plans.

3 Then we list the kinds of things these  
4 plans would address.

5 In addition to that, the National Ocean  
6 Council can stimulate creation of sort of interim  
7 regional councils and try on a pilot basis to see how  
8 many of these functions that we're going to mention  
9 here, the regional councils, can carry out and what  
10 sort of adjustments should be made before there is a  
11 recommendation by statute which we anticipate coming  
12 out of this process of the National Ocean Council and  
13 these other groups working closely together to  
14 generate a constituency for the passage of the  
15 statute that would create these regional ocean  
16 councils.

17 The idea of a pilot project is to test out  
18 some of the theories, particularly in those areas

19 which are receptive to having a regional ocean

20 council in their area and see how it works.

21 If you were doing this in the private

22 sector, if you were trying to reorganize along these

12706.A  
JWBeach

1 lines in the private sector, you would never try to  
2 do that across the whole system at once. You would  
3 try it out in various pilots and see what works, what  
4 doesn't work, what adjustments need to be made before  
5 you impose it on the whole system, or you could even  
6 decide you don't want to do it at all because you  
7 don't think it's going to work like you thought it  
8 would.

9 In any event, we think that that would be  
10 an important role for the Council to play in the  
11 meantime.

12 And in the meantime, the National Ocean  
13 Council should assist in fostering the regional  
14 implementation of national goals. There's this  
15 concept of nesting, which we have not, I don't think,  
16 put in this language where there are national goals  
17 and then regional goals which fit into the national

18 goals and are in many respects an application of the  
19 national goals to specific issues and circumstances  
20 that exist in the region.

21                   But the National Ocean Council would again  
22 be testing those national goals against their

12706.A  
JWBeach

1 regional receptivity and applicability. Next slide,  
2 please.

3 (Slide.)

4 We are trying to move, as we have said  
5 many times in our presentations, toward an ecosystem  
6 based approach to the management of multiple ocean  
7 and coastal resources and uses at both the regional  
8 and national level.

9 What we are suggesting here is that the  
10 management actions should reflect these regional  
11 goals as well as the national goals. They need to be  
12 consistent with the national goals, but they will be  
13 different region by region. And that what we are  
14 really fostering here is the importance of healthy  
15 ecosystems in regional areas providing necessary  
16 goods and services.

17 So as to lead by example, that last bullet  
18 suggests that the federal agencies need to get their

19 own act together and coordinate their own functions  
20 and decisionmaking processes both nationally and at  
21 the regional level.

22 Having done that, it is much easier to

12706.A  
JWBeach

1 gain a regional coordinated address to these kind of  
2 problems than if the national agencies are fragmented  
3 and not working closely together.

4 This can be a function that the National  
5 Ocean Council originally undertakes. And when these  
6 regional councils get created and are uppegoing,  
7 that is a mechanism for ensuring that that  
8 coordination is better undertaken. Next slide,  
9 please.

10 (Slide.)

11 These issues of regional concern need to  
12 be more effectively addressed. We want to be  
13 flexible in the way in which the regions are  
14 encouraged to address their own issues.

15 Here we are suggesting the kinds of  
16 functions that regional councils can undertaken in  
17 order to appropriately exercise that flexibility  
18 which we're suggesting they have.

19                   Facilitating coordination. That all  
20   sounds obvious, except it isn't obviously happening  
21   everywhere. We need to pay a lot of attention to  
22   either the integration or coordination of overlapping

12706.A  
JWBeach

1 or inconsistent, and sometimes consistent but not  
2 coordinated, activities.

3 There will be simulations and delineations  
4 of regions to determine boundaries, provide names,  
5 descriptions of key areas and features, and promote  
6 adequate mapping.

7 We talked yesterday about the need for a  
8 single recommendation on mapping. I think this can  
9 be modified to fit into that overall mapping  
10 recommendation which I completely agree that we ought  
11 to have one recommendation on mapping.

12 And, to build a better awareness and  
13 understanding of ocean issues through the general  
14 public through the use of education and outreach.

15 Now assuming that the  
16 regional ocean councils are up and running, there is  
17 a sequencing problem here that you've no doubt  
18 sensed. That is, the time between the creation of

19 the National Ocean Council and the actual creation of  
20 regional ocean councils, which could be a  
21 considerable period of time. Particularly if they're  
22 created by statute--which it is likely that they will

12706.A  
JWBeach

1 be--it could be as much as two to five years before  
2 we see statutorily created regional councils. And in  
3 the meantime, there needs to be some sort of regional  
4 address to this.

5           This period of time can be effectively  
6 used by the National Ocean Council to generate  
7 support for regional ocean councils and begin to have  
8 state, local, tribal, other governments see the  
9 advantage of working closely together under a  
10 regional umbrella.

11           This talks about some of the things that  
12 regional councils should do:

13           Facilitate coastal and ocean science and  
14 information support; develop research priorities and  
15 plans; provide or facilitate data management for the  
16 region.

17           Again I can give you an example of the  
18 salmon. We don't have any regional salmon research

19 plan. People are doing their own thing on salmon,  
20 and nowhere has there been pulled together by the  
21 scientists a plan for what is the information we need  
22 and in what sequence do we need it to make the wisest

12706.A  
JWBeach

1 decisions as it relates to the efforts for those fish  
2 to recover?

3           It has been suggested, among others by me  
4 any number of times, that we need that and we don't  
5 have it. A regional council I think would be more  
6 empowered to ensure that that happened.

7           The application of ecosystem-based  
8 principles established by the National Ocean Council  
9 in the regions is certainly an important function and  
10 will be a helpful feedback to the National Ocean  
11 Council as to how those principles that they have  
12 established are in fact working on the ground.

13           And there will be, since there are so many  
14 regional plans now in existence and being produced,  
15 the need for integration of these regional plans is  
16 rampant in some areas. And for a coordinating agency  
17 such as the regional ocean council would be very  
18 helpful in pulling those plans together.

19                    There is a list there, a very partial  
20   list, of the kinds of plans that are currently either  
21   in existence or under preparation. Next slide,  
22   please.

12706.A  
JWBeach

1 (Slide.)

2 Now this is a very important function of  
3 the regional council. The council itself is not an  
4 operational body. It can be a facilitator for the  
5 solution to problems, but it doesn't solve a lot of  
6 problems directly by getting itself involved in them.

7 One very important function, in my  
8 judgment, is the capability of forming a series of  
9 panels on particular issues for planning, or even for  
10 the assistance in problem-solving.

11 Some of these groups could be permanent.  
12 They could even provide charters for these panels,  
13 receive testimony, and publicize their  
14 recommendations.

15 This in no way detracts from the  
16 responsibilities that currently exist in either  
17 federal, state, local, or existing authorities. It  
18 is more of an effort to coordinate those authorities

19 so their activity and action become more effective.

20 Next slide, please.

21 (Slide.)

22 These are just some of the areas where

12706.A  
JWBeach

1 panels could be created. By no means are they  
2 exhaustive. But you can see that if you were to  
3 create panels for these various areas, it has already  
4 been suggested that there be a permanent federal  
5 agency panel, which may well be a good idea, but  
6 these are just a list of issues that sometimes at the  
7 regional level need more coordination and help. And  
8 there isn't a mechanism for pulling together the  
9 requisite people to ensure that whatever problems  
10 exist are in fact being addressed.

11 And as I say, this is by no means an  
12 exhaustive list. It could be much longer than this.

13 Next slide, please.

14 (Slide.)

15 This is what I mentioned a minute ago, and  
16 I think it is probably worth saying explicitly: By  
17 no means are we suggesting that these councils should

18       supplant existing local authorities. And we even  
19       list groups like the Fisheries Management Councils  
20       there.

21                       We do believe, however, that it is  
22       important that these bodies effectively bring the

12706.A  
JWBeach

1 goals of things like ecosystem-based management and  
2 improved coordination to bear on decision making.  
3 That is the function really of the Commission.

4 In addition, it can facilitate the  
5 coordination and expenditure of funds in order to  
6 achieve regional goals and objectives.

7 We think that the National Council should  
8 create a regional management information program that  
9 will be linked into the information program at the  
10 National Ocean Council level.

11 (Slide.)

12 The last slide having to do with the  
13 regional aspects of the National Ocean Council are:  
14 To develop regional goals and performance objectives  
15 and measures for the state controlled coastal zone in  
16 conjunction with state authorities. And, to the  
17 extent possible, harmonize federal, state, local, and  
18 tribal responsibilities within that state-controlled

19 coastal zone.

20 And, provide coordinated regional input to

21 federal agencies for use in the development of

22 comprehensive plans for the management of the federal

12706.A  
JWBeach

1 lands and waters.

2 All this planning goes on, and there needs  
3 to be some mechanism to ensure that the planning of  
4 whatever level of government is coordinated with the  
5 others. There is nobody with that responsibility now  
6 unless occasionally governors will take it on  
7 personally, but it is not actually located anywhere  
8 either by law or by custom.

9 Now let me just close by talking for a  
10 minute--next slide, please, Gerhard--

11 (Slide.)

12 --on federal agency reorganization.

13 We have, needless to say, looked at a  
14 mountain of proposals for consolidation. These  
15 recommendations for consolidation have come from  
16 members of our own Science Panel, from witnesses  
17 before us, from Commissioners. A number of them are  
18 included in the book we received for this meeting.

19                    We think it is terribly important, as I  
20   state right there at the beginning, that  
21   consolidation be undertaken; that consolidation is  
22   warranted.

12706.A  
JWBeach

1                   We also believe it is a function of the  
2 National Ocean Council to have an ongoing  
3 responsibility to look for consolidation  
4 opportunities of federal agencies where they occur.

5                   You will recall that that was one of the  
6 functions that I mentioned when going through the  
7 functions of the council. Next slide, please.

8                   (Slide.)

9                   We think that what this Commission can  
10 best do is to provide a set of principles and  
11 functions to guide the National Ocean Council in  
12 making determinations about the wisdom of various  
13 consolidations.

14                   These are some principles which we have  
15 thought of. By no means is it an exhaustive list,  
16 and by no means are we wedded to these as either the  
17 only or that these should be the principles guiding

18 restructuring or consolidation.

19                   You can see the form follows functions is  
20 the first one, essentially. That we are in fact when  
21 we bring these agencies together bringing pieces of a  
22 common problem. We are looking for leverage in the

12706.A  
JWBeach

1 sense that by combining two agencies are you really  
2 gaining a whole that is greater than the parts. And  
3 if you're not, you have to ask yourself why you're  
4 doing it. Are we actually gaining efficiency in the  
5 way in which effectiveness is almost a given. If it  
6 isn't going to be more effective, then why  
7 consolidate it?

8 Efficiency is terribly important to the  
9 government, at least to the OMB. And if it is going  
10 to be embraced and endorsed by government, you have  
11 to make strong arguments about efficiency.

12 Since we have talked a good deal about the  
13 necessity of linking systems relative the air, earth,  
14 and water both for policy and for science, that is a  
15 good principle to look for in determining whether a  
16 consolidation makes sense, as well as enhancing the  
17 linkage between science and policy programs. Next  
18 slide, please.

19 (Slide.)

20 These are the kinds of federal agency

21 reorganizations that we think make sense from the

22 standpoint of functions.

12706.A  
JWBeach

1                   We have heard through testimony and our  
2                   own conversations and experience and background a  
3                   number of reasons why these functions should be among  
4                   the highest priority for consolidation. You can see  
5                   them there.

6                   These are problems, or areas of  
7                   opportunity in the country that have been  
8                   underaddressed or are fragmented and where in fact  
9                   sometimes agencies with similar responsibilities are  
10                  even at odds with each other.

11                  There is no reason why some of those  
12                  problems can't be addressed through integration and  
13                  coordination without actual consolidation.  
14                  Nevertheless, in here we think there are a number of  
15                  areas for possible consolidation.

16                  Again, by no means is this list thought to  
17                  be exhaustive and it can be added to or subtracted  
18                  from as we see fit.

19                    We have not, as all of you know, yet  
20        decided whether we will specifically recommend any  
21        consolidation.  But any suggestions from us certainly  
22        should include these principles and a recognition of

12706.A  
JWBeach

1 the kinds of functions that make sense for  
2 consolidation.

3           If you look at the mountain of material we  
4 have, even from those of you who are Commissioners,  
5 as to what your recommendations are and the  
6 recommendations from others we've received for  
7 consolidation, no consensus immediately arises as to  
8 what should be done in consolidation. But we  
9 continue to look at it and will continue to do so  
10 until the Commission's work is completed.

11           Well that is sort of the overview of where  
12 we are right now on governance and how the  
13 governments should organize themselves to develop a  
14 sound ocean policy. And at this point, I'll stop.

15           MR. EHRMANN: Let me suggest for purposes  
16 of the discussion that we, as Commissioner  
17 Ruckelshaus has teed up here, take on these first  
18 three items and allow for--because it is kind of a

19 holistic framework--I think it is important to allow  
20 for comments on any part of it from the Commissioners  
21 in this next period.

22 We have a good period of time here that we

12706.A  
JWBeach

1 can use for this discussion before they need to move  
2 on to the next part of their presentation. So let me  
3 start with Commissioner Rasmuson.

4 COMMISSIONER RASMUSON: Bill, I'm not here  
5 to shoot a lot of things down. I admire your  
6 tenacity in trying to get this thing through, and it  
7 has to be addressed. So I am doing this to kind of  
8 get some information on this.

9 Like on page 2 of the National Ocean  
10 Policy Framework, can you kind of explain what your  
11 thinking is on how many people would be on the Ocean  
12 Council? Then you say "assisted by Council advisors  
13 made up of coastal governors and other appropriate  
14 state, local, tribal." How big is that? What's your  
15 thinking on that? Are you talking about having the  
16 governors have their designee there, and what have  
17 you?

18 COMMISSIONER RUCKELSHAUS: Well as to the

19 first, for the Council itself, Ed, I would think it  
20 would be dictated really more by the significant  
21 nature of the responsibilities that the agency or  
22 department had for ocean policy.

12706.A  
JWBeach

1 I wouldn't think more than 10 or 12, but I  
2 wouldn't want to restrict what the President or the  
3 Congress wanted to do in making sure that whatever  
4 interest was involved in the ocean was not  
5 represented. I think they should be represented.

6 It could be, I guess, as many as 15 or so.

7 On the second question as to the FACA  
8 Council, I personally believe a council is more  
9 effective with fewer people.

10 COMMISSIONER RASMUSON: I do, too, but  
11 this is all-encompassing.

12 COMMISSIONER RUCKELSHAUS: Well, but they  
13 would be there in a representative capacity. I think  
14 it should be made very clear when they are appointed  
15 that if they are appointed as an individual from say  
16 a tribe or a coastal state or wherever it might be,  
17 that they would be serving in a representative  
18 capacity, meaning that they should reflect to that

19 council the attitudes of the constituencies within

20 their representation.

21                   If that is made an explicit understanding

22 on their part, then they take time to find out what

12706.A  
JWBeach

1 their counterparts think, or their interests or  
2 whatever it is think, and make sure that that is  
3 appropriately reflected in the Advisory Council's  
4 work.

5           You can do it either way. You can ask  
6 people. You can have a group of wise people serve on  
7 a council like this and just rely on their experience  
8 and wisdom to properly guide you.

9           My own experience is you're better if  
10 people understand they're there for the  
11 representative. You want good people, obviously.  
12 You don't want somebody who is going to make  
13 everything not work. But by the same token, it is up  
14 to them to go back to the people they represent and  
15 make sure they're reflecting their point of view in  
16 the work of the Council.

17           COMMISSIONER RASMUSON: So this particular

18 Advisory Council would just be advisors to the  
19 National Ocean Council, and that National Ocean  
20 Council would be designated to make recommendations?  
21 Would they have authority in certain areas?  
22 COMMISSIONER RUCKELSHAUS: No. Strictly

12706.A  
JWBeach

1 advisory.

2 COMMISSIONER RASMUSON: Strictly advisory?

3 COMMISSIONER RUCKELSHAUS: And if in fact,

4 as the Council and the Chairman of the Council or

5 Assistant to the President, went about its work, it

6 would have to reach out considerably beyond the

7 Council instead of the FACA, Advisory Council, to get

8 advice and guidance about how to deal with regional

9 governance issues for instance.

10 Because no council I think could be, no

11 FACA council could be sufficiently broad to give all

12 the kinds of information and input necessary to make

13 wise choices.

14 COMMISSIONER RASMUSON: So it would really

15 be more of a forum to elaborate on the issues that

16 are regional issues as well as that affect

17 nationally?

18 COMMISSIONER RUCKELSHAUS: Yes. I think

19     so. I mean, if a council like that is used properly,  
20     and the National Council which as we envision it is  
21     made up of federal officials, is about to do  
22     something that is going to have significant impact on

12706.A  
JWBeach

1 the country that they're not completely aware of, an  
2 advisory council of this kind can tell them that, can  
3 advise them and say, look, here's the impact this  
4 will have on these groups of people, or this interest  
5 in the country, and you ought to be aware of that.  
6 That doesn't mean they don't do it, but it is helpful  
7 if they're aware of what the impact might be.

8 In a country as complex as this, nobody is  
9 smart enough to figure out everything that might  
10 result from a decision, or even a statement they're  
11 about to make.

12 COMMISSIONER RASMUSON: So as I understand  
13 it, and I won't elaborate further, it is that the  
14 National Ocean Council itself would be started first.  
15 Then you would have the national ocean advisors made  
16 from the various areas throughout the United States.  
17 Then at some point in time in two to five years they

18 would try to bring it down on a regional basis  
19 depending on whether the governors want to try that  
20 area as a guinea pig or whatever and try to develop  
21 some sort of a coordinating function or council on  
22 the regional level that would report to these--the

12706.A  
JWBeach

1 National Ocean Council--would sit on the National  
2 Ocean Advisors as well; and there would be  
3 interlocking membership, so to speak?

4 COMMISSIONER RUCKELSHAUS: Could be.  
5 Could be. The idea is for the National Ocean Council  
6 not to wait to go out and start working with the  
7 state and local governments and others, but to do so  
8 immediately.

9 It just is our judgment that it would take  
10 a period of time, and we are just suggesting two to  
11 five years, before you have enough of a consensus  
12 about how a reasonable council might work and how it  
13 would be helpful in resolving ocean policy issues  
14 that you would want to recommend to the Congress or  
15 to the Administration more permanency in those  
16 regional councils.

17 COMMISSIONER RASMUSON: Okay. Thank you.

18 MR. EHRMANN: Commissioner Sandifer?

19 COMMISSIONER SANDIFER: Thank you, John.

20 Bill, I applaud the Governor's Working

21 Group's energy and enthusiasm. I'm actually very

22 pleased with the outcome, to see something that we

12706.A  
JWBeach

1 can really set our teeth in now.

2 I've got a whole bunch of small questions  
3 and a couple of big ones I want to run through  
4 quickly. I'm going to mention them based on the  
5 slide that they're on.

6 Starting with Slide 6, NOC Functions, the  
7 third bullet down is: Create and oversee the work of  
8 task groups formed to address various issues.

9 Bill, yesterday in the presentations from  
10 REMO and Stewardship, both Jim and I mentioned at  
11 least two options or two entities that are already in  
12 place that might become these kinds of task groups,  
13 National Ocean Leadership Research Council in the  
14 case of REMO, and the Joint Subcommittee on  
15 Aquaculture in the case of the Stewardship report.

16 I was curious. Is that the kind of things  
17 that Governance is talking about, and perhaps others?  
18 Those are simply two examples that already exist. Is

19 that what you all have in mind?

20 COMMISSIONER RUCKELSHAUS: Yes. Yes, I

21 think the two that already exist may well be

22 permanent, or a task force could be just ad hoc for

12706.A  
JWBeach

1 the specific issues that they want them to address.

2 COMMISSIONER SANDIFER: Okay. I think it  
3 will help us in the report as you work through these  
4 to give those kinds of specific examples, and perhaps  
5 others, and also will help assure the communities  
6 that are interested in those functions that they are  
7 going to continue but they will be operating,  
8 frankly, at a different level.

9 They will be reporting to the highest  
10 level we can get in the Nation, and I think that is  
11 extremely important for us to note.

12 COMMISSIONER RUCKELSHAUS: That's a good  
13 suggestion.

14 COMMISSIONER ROSENBERG: And there are  
15 several others.

16 COMMISSIONER SANDIFER: Yes, there are  
17 several others. Those are just the examples we heard  
18 yesterday and I just wanted to make sure that those

19 kinds of things are being considered, and perhaps you  
20 all can give us a fuller list without trying to be  
21 complete at this point, but some really good examples  
22 here.

12706.A  
JWBeach

1                   COMMISSIONER RUCKELSHAUS: Just to follow  
2 up on that, I think the staff recognizes that we  
3 needed this placeholder very badly in the staff, to  
4 be able to take the kinds of recommendations coming  
5 in from the other two working groups and place them  
6 in as the kinds of things that would fall under this  
7 so people know exactly what these words mean.

8                   I have seen the stuff coming out of both  
9 REMO and Stewardship, which I think from my point of  
10 view fit that particular bullet very nicely. So  
11 we've been waiting for this degree of definition that  
12 Governance has struggled with, and the rest of us  
13 have struggled with, for some time.

14                   So I applaud the fact that we've got this  
15 now, and there are many things in here that I am  
16 seeing placeholder for the kinds of recommendations  
17 that you all made because I know each of the other  
18 non-Governance working groups have struggled with--

19 where do they put their recommendations?

20 Well now we've got a place for most of

21 them. I can't so far remember any recommendation

22 that doesn't fit into this kind of a concept. So we

12706.A  
JWBeach

1 needed it, and I agree with you, Paul, that is what  
2 we are going to do.

3 COMMISSIONER SANDIFER: So if I may  
4 proceed, John, to a few other points:

5 If you look at slide eight, NOC Functions  
6 on the Budget Process, there are two things here that  
7 I would like to see us consider a big stronger.

8 One is the role of either the NOC or the  
9 Assistant to the President in trying to ensure that  
10 all of the ocean-related budgets go through a single  
11 coordinated examination process within OMB, if I can  
12 say it the right way.

13 Right now, that is not the case, not at  
14 all the case. For example, the NOAA functions are  
15 looked at by very a different group of examiners or  
16 examiner than are the USGS or EPA or Fish & Wildlife  
17 Service, and other natural resources kind of related  
18 or environmental kind of related programs, and I

19 think that kind of harmonization will be

20 excruciatingly important--and I use that word on

21 purpose--if we are to make progress here.

22                   Secondly, we had talked, and I believe

12706.A  
JWBeach

1 both Admiral Gaffney and Admiral Watkins at different  
2 times have talked about, the necessity of having some  
3 level of funding coming directly to the NOC, or it  
4 having authority over some level of funding it would  
5 then distribute to agencies to ensure the  
6 implementation of policies established by the NOC.  
7 And I don't see that here at all.

8 So I'm curious if we can find some way to  
9 get those two points in this budget process.

10 MR. EHRMANN: Andy?

11 COMMISSIONER ROSENBERG: To the first  
12 point, Paul, I agree that the sort of myriad-  
13 examiners' problem as well as just budget structure,  
14 having very different budget development structure in  
15 the agencies and then on the Hill, makes it very  
16 confusing.

17 It's a little hard to know what to

18 recommend there. I mean, I'm not sure that Congress  
19 wants us to tell them to change their budget  
20 structure, but we certainly may be able to note that  
21 that is a hindrance in understanding how investments  
22 are flowing, and that that is something the National

12706.A  
JWBeach

1 Ocean Council would need to be able to do. But the  
2 disconnect sometimes in the budget process does make  
3 it extremely difficult to figure out who is applying  
4 for what--not "applying for," but who is seeking what  
5 funds for what purpose.

6 But that is going to take an awful lot of  
7 careful crafting to make sure that we can point out  
8 the problem, even though I think it is a bit beyond  
9 us to make a recommendation on changing the federal  
10 budget process.

11 COMMISSIONER SANDIFER: May I continue?

12 MR. EHRMANN: Yes.

13 COMMISSIONER SANDIFER: All right.

14 Bill, now I want to move to the regional  
15 issues. If you look first at slide seven--and there  
16 are several of these slides: Slides 7, 9, 10, and 12  
17 in particular, and I'm going to start with Slide 7.

18 The second bullet implies that not much is

19 going to get done on the regional level until  
20 planning and management units are determined by this  
21 National Ocean Council.

22 I am concerned that that is a very long

12706.A  
JWBeach

1 forward punt and may take a great deal of time when  
2 we, at least on the seaward side, have pretty well  
3 outlined some options.

4 I am concerned that we not delay things on  
5 the regional level. And if you skip over for a  
6 moment to slide 12 where you talked a little bit  
7 about the things that each regional council could  
8 carry out as functions, you--

9 (A private comment is made to Commissioner  
10 Sandifer.)

11 COMMISSIONER SANDIFER: Well, I'm trying  
12 to do it in terms of where the computer folks can  
13 follow along because it's--NOC, however, starts back  
14 beyond that at 7, 8, and 9.

15 The point I'm making here is the guidance,  
16 for the Commissioners there are two slides per page.  
17 It's real easy to figure out which number I'm talking  
18 about. Number 12 is the second one on page 6. This

19 is not terribly difficult.

20 When you mentioned, when you went over

21 this slide, Bill, you talked about the lag time

22 between the creation of the National Ocean Council

12706.A  
JWBeach

1 and when you thought regional ocean councils might  
2 actually come into being. That was two to five  
3 years. And you talked about the need for a  
4 transition here.

5 But I am still not clear in reading  
6 through these--either your reading through them or my  
7 reading through--everything that started with the  
8 slide 10, perhaps, a Regional and Coastal Governance,  
9 and on through these, exactly what that transition  
10 is.

11 And one recommendation is for the first  
12 step of improved regional governance through federal  
13 agency coordination be much more strongly worded to  
14 say that this is an absolute requirement as a first  
15 step; that the National Ocean Council should in fact  
16 see to the regional coordination of federal agencies.

17 If we get that done, then you've got the  
18 federal framework within which some regional

19 development can actually proceed in that transition  
20 period. That is where my concern is, trying to read  
21 these things as a whole, so to speak. Am I making  
22 sense to you now?

12706.A  
JWBeach

1                   COMMISSIONER RUCKELSHAUS: Yes, you are.  
2           And I think we can be clearer on that transition  
3           period, and I think the recommendation about the need  
4           for the Federal Government and federal agencies to  
5           get their act in place in the meantime is a very good  
6           one and needs to be emphasized.

7                   I think we do need to do a little more  
8           work on this transition stage to make sure. In the  
9           first place, we don't want to be too prescriptive  
10          because it's not clear exactly how. We want to make  
11          sure they know what it is we want to do and to stay  
12          away from the how-tos. But I think we do need to be  
13          clear. I think you're right.

14                   COMMISSIONER SANDIFER: Bill, having  
15          worked in State Government for so long, and being a  
16          researcher by my--a "recovering researcher," I guess  
17          you might say--when someone says "study" and "plan,"  
18          that can always be a means of delayed action. So you

19 have to be very, very careful, at least in my view,

20 that we do have a place we're going.

21 I just want it to be a little bit more

22 explicit and straightforward. I very much like the

12706.A  
JWBeach

1 list of the panels. Obviously Marc Hershman and I  
2 spent a little time on this. I think it needs some  
3 more fleshing out. But I do believe that kind of  
4 thing with a little text to go along with it will  
5 provide some good information to people out there on  
6 what are these people thinking about. This is some  
7 reality of what people are thinking about.

8 MR. EHRMANN: Commissioner Hershman, did  
9 you have a comment on the previous point?

10 COMMISSIONER HERSHMAN: Yes. If I could,  
11 the comment is on the question of the transition and  
12 the first step being by federal agencies.

13 One cautionary note. I think that the  
14 overall objective of the regional governance proposal  
15 is to bring together all the interests for that  
16 region, which would include state, local, federal  
17 agencies, nongovernmental interests, and all of that.

18 The sooner they can start as a collaborative body,  
19 the better off we will be.

20                   If the federal agencies get too far out in  
21 front for example with their own notion of what  
22 should happen in the region, we are back to the same

12706.A  
JWBeach

1 state versus federal debates; the same sort of  
2 potentially conflictive situation.

3 So I think federal agencies should take  
4 the initiative. Maybe the first thing they do is  
5 draw in the states and locals into their activity.

6 COMMISSIONER SANDIFER: I agree with you  
7 entirely, Marc. I just felt that something that says  
8 that somebody is going to do something as opposed to  
9 think about it for two to five years would be  
10 helpful.

11 MR. EHRMANN: Yes. That can be clarified.  
12 Commissioner Borrone?

13 COMMISSIONER BORRONE: Absolutely you're  
14 right. We don't mean to convey the sense that it's  
15 going to take as much as five years.

16 I think the point Bill is trying to make  
17 is that we are trying to be realistic in discussing  
18 with the Commission the sense that we are not quite

19       sure yet how the structure will actually get created.

20                       If it is through Executive Order, that may

21       lead to a different timeframe for initiation of

22       certain steps than if it's a statutory authorizing

12706.A  
JWBeach

1 process. But statutes could also be implemented  
2 fairly quickly if the Congress decides it wants to  
3 step forward in the immediate term.

4 I think the point that Bill has made that  
5 I want to re-emphasize is that we do see the  
6 desirability of initiating a regional process through  
7 the national structure immediately. So that is why  
8 Bill said it is one of the first key steps that that  
9 structure needs to take; and that what we really  
10 want, as Marc points out, is a regional structure  
11 that has coordination at the federal level and  
12 interaction with all of the interests in the region.

13 Our focus is on functional activities that  
14 both groups--regional/federal and regional/others--  
15 can agree are key to their regions' needs. And to  
16 start on those as quickly as possible.

17 And they don't necessarily have to wait.  
18 But we thought that a pilot process was one way to

19 initiate that if the structural implementation effort

20 is going to take awhile.

21 COMMISSIONER SANDIFER: I applaud that,

22 because I think the pilot process is excellent,

12706.A  
JWBeach

1 Lilly. My only concern about it is that it also not  
2 delay things; that it be used to move it rather than  
3 delay.

4           And lastly on this topic, if I may, John--  
5 and I would like to come back later to deal with some  
6 issues on federal reorganization--but this one is at  
7 slide 16, the bottom of page 8 for us, Regional Ocean  
8 and Coastal Governance, the discussion about a  
9 regional management information program.

10           This again is one of those things that  
11 could really be kick-started by regional work by  
12 federal agencies working directly with state  
13 agencies. This becomes an immediate payoff. That  
14 is, the better accumulation and access to data is a  
15 real value for local decisionmaking and I think could  
16 be an important point for us to emphasize.

17           This could be done relatively quickly and

18 have a substantial positive result. I'll stop there.

19 MR. EHRMANN: We'll come back for your  
20 later point.

21 Admiral Gaffney?

22 COMMISSIONER GAFFNEY: Thank you, John.

12706.A  
JWBeach

1                   Well I like this so much, Mr. Ruckelshaus,  
2                   that I actually would like to make sure it can work.  
3                   I thought that you addressed other people's money in  
4                   the budget slide very well. I really agreed with it.  
5                   And I like all the words in here.

6                   I'm a little bit worried about execution.  
7                   Let me go back one bit. I think without objection  
8                   yesterday we discussed that there be some kind of  
9                   budget control by or actual ownership of money for  
10                  ship and submersibles' facilities and the integrated  
11                  observing system.

12                  I don't think anyone around the table  
13                  disagreed with that. That is not in here. Paul just  
14                  mentioned that. So I just reiterate that.

15                  But I am actually concerned about some of  
16                  the other things. All these laudable goals and  
17                  directions in here for several pages, like oversight  
18                  of data management establishing task force, directing

19 agencies to implement programs, enhancing education  
20 and outreach, overseeing assessments, are all things  
21 that cost a finite amount of money.

22 If you don't own the money, then the

12706.A  
JWBeach

1 agencies do. You have to pick up the phone and say:  
2 Spend money. And their easy answer is: Great idea.  
3 Not in my budget. I'll put it in the budget  
4 proposal. Call me in two-and-a-half years.

5 So I think we have got to somehow figure  
6 out how you've got execution-year UMP, or opportunity  
7 to affect long-term plans, or actually own money in  
8 order to get these things done that need to be done.

9 That is one.

10 COMMISSIONER RUCKELSHAUS: Yes. I think  
11 that is a good point.

12 COMMISSIONER GAFFNEY: I don't really know  
13 how to say it, sorry.

14 CHAIRMAN WATKINS: Well, but there's a way  
15 to do that. You know, when we get into the  
16 investment strategies which we've got to support for  
17 what we're recommending here, one of the things we  
18 can say to the Congress is that we need those kinds

19 of monies for these purposes.

20                   We don't have the priority necessarily set  
21 until that Ocean Council can convene. It should come  
22 up with the priorities, but we're willing to put a

12706.A  
JWBeach

1 certain amount of appropriated money against your  
2 account, Mr. NOC, for these purposes. And you come  
3 back to us, Mr. President, with your recommendation  
4 of how you're going to spend this and what is your  
5 priority to carry out the National Ocean Policy.

6 Those things can be done, and we can  
7 recommend that the Congress do that, to provide those  
8 kinds of monies as incentive for the White House to  
9 establish this NOC and to get on with the priority  
10 setting along the lines we recommended. So that  
11 there is a process to do that, we've just got to  
12 initiate it.

13 So I think we can do that in the  
14 investment end of this when we get to the budget  
15 support for our recommendations.

16 MR. EHRMANN: A couple of comments on that  
17 point before you go to the next point, I think.

18 Commissioner Rosenberg?

19 COMMISSIONER ROSENBERG: Thank you.

20 I agree with you, Paul, that it is

21 important on the money. You don't have to own all

22 the money. You have to own enough such that it makes

12706.A  
JWBeach

1 it worthwhile to everyone to pull together.

2 I wonder if, although we haven't discussed  
3 this in the Working Group, I wonder if one way to  
4 address this is somewhat along the lines of the  
5 consolidation discussion.

6 There were certain kinds of functions, and  
7 working under a set of principles where I could  
8 imagine it would be important for the NOC to have  
9 direct control of money and a lot of things that  
10 there's no real reason to have the NOC control the  
11 money because it's implementation at an agency level.

12 And if we can outline the kinds of  
13 functions--and data is I think one that you  
14 mentioned--where at least a portion of the money  
15 needs to be owned by the NOC, then that may be again  
16 not necessary, but not a full list--I mean not fully  
17 prescriptive of all the sorts of things that the NOC  
18 might be involved in terms of budgetary authority.

19 But we probably could come up with the kind of  
20 functions where it would be important to have money  
21 controlled by the coordinating body as opposed to  
22 just the action agencies.

12706.A  
JWBeach

1                   That might be an easier way than trying to  
2                   develop a fully exhaustive list of the kinds of  
3                   budgetary initiatives that had to be held within the  
4                   NOC.

5                   MR. EHRMANN: Commissioner Sandifer, did  
6                   you have a comment on this?

7                   COMMISSIONER SANDIFER: Just very quickly  
8                   on this topic. I can't emphasize it enough. I  
9                   believe this is my first comment. Paul Gaffney has  
10                  done a better job of outlining some specifics, and I  
11                  like Andy's suggestion of functional elements.

12                  We are talking about the NOC because we  
13                  have heard probably a thousand times in testimony of  
14                  one kind or another, either before us or in written  
15                  form, that coordination and cooperation at the  
16                  federal level is lacking.

17                  So we are suggesting creation of this  
18                  thing at a high level to make sure that that

19 cooperation and coordination does--that necessary

20 coordination and cooperation--does occur.

21                   However, creating it at a high level alone

22 is not quite sufficient. Twenty-five years ago I was

12706.A  
JWBeach

1 introduced to the government's definition of the

2 Golden Rule:

3 He who has the gold, rules.

4 And if you don't have any gold, you've got  
5 no rules.

6 So at for some of these very critical  
7 functions, there has to be enough budgetary clout  
8 within the NOC to go along with the level of  
9 administrative clout to actually say that thou shall  
10 go do these things and do them in this fashion. That  
11 is the point that just has to be driven home over and  
12 over again.

13 COMMISSIONER ROSENBERG: And then I think  
14 the data integration and dissemination area is one.  
15 The mapping discussion that we've had is another.  
16 Ships. Infrastructure is another. Again, you don't  
17 have to hold all the money, but you have to have  
18 enough such that you're a player.

19 MR. EHRMANN: Admiral Gaffney, other

20 points?

21 COMMISSIONER GAFFNEY: Maybe now as a

22 corollary, I'm now going to just shift to federal

12706.A  
JWBeach

1 agency reorganization, the last two vu-graphs, with a  
2 couple of comments, no criticism--well, maybe one at  
3 the very end--

4 (Laughter.)

5 COMMISSIONER GAFFNEY: --but some things  
6 to add as they get fleshed out over time.

7 I think we have to recognize that there  
8 are certain mission agencies with substantial ocean  
9 capabilities that can never be consolidated. Those  
10 people have responsibilities for public lands, and  
11 for international relations and defense and science,  
12 et cetera, are never going to, even little pieces are  
13 never going to be transferred.

14 So we need to find ways to bring them  
15 together, concrete ways, not just let's get together  
16 and buy donuts and have a meeting. But one way is  
17 financially, as you just mentioned, Andy. That does  
18 bring people together if you own some money.

19                    Another way is to make the new agency, the  
20                    new consolidated agency, the king of federal data and  
21                    therefore these agencies must rely more and more on  
22                    data. So doing that well in an observing system

12706.A  
JWBeach

1 where all the data is there and made useful to  
2 everybody can actually, that can actually be the  
3 currency of interagency cooperation in oceanography.

4 That is one.

5 Second, next on this topic you talk about  
6 the linkage between science and policy. I actually  
7 see three--what I'm worried about is in the past too  
8 much effort on regulation and not enough effort on  
9 understanding what we are regulating.

10 So I see there are sort of three things in  
11 government. There's sort of science and services;  
12 then there are programs that stimulate voluntary good  
13 stewardship; and then there's enforcement and  
14 regulation.

15 The pressure to be at court on time and to  
16 win your case can over time if you're not careful be  
17 a drain on resources, on talent, and on people, away  
18 from the very thing you are trying to do, which is to

19 make good regulations based on good science and to

20 spur voluntary good stewardship.

21 So I just want to make sure that there's

22 some kind of check and balance to the system, whether

12706.A  
JWBeach

1 it's within an agency, or in two separate agencies  
2 where it is not easily--because resource is not  
3 easily drained towards enforcement and regulation,  
4 away from the thing that is the main principle of  
5 this committee, which is to base public policy on  
6 good science and technical information.

7 Fourth, this may be a criticism, but maybe  
8 this is only my view of life having spent a lot of  
9 time in the Federal Government and being a little bit  
10 cynical.

11 When I look at the list on the last vu-  
12 graph here of federal agency organization, it smacks  
13 to me of the thumbscrew of government. It lists  
14 things that are all good things,  
15 it lists things that sound like control,  
16 manage, and restrict. It doesn't list other  
17 important things like develop, understand, invest,  
18 educate, and serve. And those are also I think very

19 important functions that we have to have in any list.

20                   Only regulating and waiting for somebody

21 to do something wrong is not the right or balanced

22 attitude.

12706.A  
JWBeach

1                   The last point is: Someplace I think when  
2 we get to our report I think we have to comment on  
3 the extent of the reorganization.

4                   I think we have to say in this, when we  
5 consider everything, when we consolidate it all, does  
6 it have enough oomph to stand on its own? Can it  
7 make it? And there are some people in this room that  
8 really know what that magic number is. We have to  
9 make sure we know that.

10                  And is the extent of the reorganization,  
11 the consolidation/coagulation so great that it will  
12 stun the Congress and that they'll see something like  
13 akin to--well nothing could be like Homeland  
14 Security, but something that is so big they don't  
15 have the stomach for it right now.

16                  I think we have to consider that and argue  
17 our way through our recommendation, keeping both

18 oomph and extent in mind. Sorry to take so long.

19 Thanks.

20 COMMISSIONER RUCKELSHAUS: Let me try to  
21 respond, Paul, to points you made about lawsuits and  
22 regulatory agencies.

12706.A  
JWBeach

1                   There's no question that under the  
2                   regulatory regimes that have been set up in this  
3                   country in the last 30 years where citizens are given  
4                   the right to sue in order to either accomplish what  
5                   the agencies have been unwilling to accomplish, or  
6                   something that is specifically designated by statute,  
7                   that that sometimes causes the allocation of a lot of  
8                   resources to that particular lawsuit.

9                   In my experience at EPA, we didn't  
10                  transfer resources away from science or away from  
11                  trying to better understand the nature of the  
12                  problems we were dealing with just to defend  
13                  lawsuits, it more dictated what happened in the legal  
14                  office.

15                  I don't think--and that office is again  
16                  largely defended in court by the Justice Department.  
17                  The number of those lawsuits can certainly affect the  
18                  allocation of resources in the government as a whole,

19 and no doubt do, but I did not find it at EPA

20 debilitating to the scientific side of the agency

21 from the standpoint of resource allocation.

22 Whether that, in my view, not having the

12706.A  
JWBeach

1 ability to guide that science to answer questions  
2 necessary to make wise judgments, whether in the  
3 context of a lawsuit or because the Congress had  
4 dictated a timeframe in which we had to act was  
5 always a problem.

6           What has concerned me is that some on the  
7 Commission, including I think you, are concerned  
8 about the combination of science and regulatory  
9 authority in one agency. My concern is, having been  
10 in charge of an agency of that kind which is heavily  
11 science oriented, without that scientific backup we  
12 have to make decisions. The Congress dictates that  
13 we make decisions within a certain timeframe. And if  
14 we don't they give the power of the citizen to go  
15 into court and force us.

16           So what I was constantly doing is trying  
17 to get the scientists to be responsive to the

18 regulatory and statutory necessities that I had.

19 Otherwise, I couldn't function. All that would mean

20 is I would make the decision but I would have less

21 information about whether to make the decision.

22 It isn't always easy to get those

12706.A  
JWBeach

1 resources allocated to the problem if they work for  
2 you. And if they don't, I think you're going to be  
3 hanging naked out there.

4 It is a problem. Nor do I think what  
5 you're suggesting that science should be divorced in  
6 some cases from regulatory imperatives is wrong.

7 It's true, and we do have that divorcement in many  
8 areas of environmental and health and safety kinds of  
9 issues.

10 So I think what we need is the proper mix  
11 of both. We have to make sure that the people that  
12 are managing those agencies understand that the  
13 science is not there for sale; the science is there  
14 to inform, and to inform the judgment that you can  
15 make at the time and I would hate to lose it.

16 MR. EHRMANN: A couple of Commissioners  
17 who work with the Governance Working Group I think

18 wanted to make some comments.

19 Commissioner Hershman?

20 COMMISSIONER HERSHMAN: Yes. In terms of

21 Paul's comment regarding the areas or functions that

22 might be a priority for consolidation, I certainly

12706.A  
JWBeach

1 think the list could be expanded. But the reason why  
2 those tend to be more in the resource protection side  
3 is the fact that they are emerging fields of policy  
4 in which there is a number of players who are  
5 involved.

6           The sorting out hasn't been done, and it  
7 seems to me that one of the objectives of our  
8 regional and national structure would be to try to  
9 help move towards a greater rationalization of all  
10 these activities.

11           The nonpoint source pollution problem, for  
12 example, has really emerged on the scene just in the  
13 last 20 years or so, and now everybody is in on the  
14 act. And so the question is, you know, how do we  
15 make more sense out of that?

16           So some of the mature areas of resource  
17 activity--for example, transportation is one of  
18 them--has found its consolidation. So I think that

19     that is why the list shows in this particular area,  
20     but it certainly wasn't intended only to pick up on  
21     the protective side and not the economic development  
22     side.

12706.A  
JWBeach

1 MR. EHRMANN: Commissioner Rosenberg?

2 COMMISSIONER RUCKELSHAUS: Thanks.

3 COMMISSIONER ROSENBERG: On both of these  
4 points, I partly agree with Paul and partly disagree.  
5 On the things that are candidates for--functions that  
6 are candidates for reorganization, I don't  
7 necessarily agree that all of these things are things  
8 that relate to things you stop people from doing  
9 because habitat restoration clearly is not one of  
10 those.

11 Nonpoint source pollution is a collective  
12 problem rather than strictly a regulatory problem,  
13 and so on down the list.

14 But I do agree that it is very much an  
15 incomplete list, probably given the hour last night.  
16 At about 10:00, we probably didn't add the other  
17 list. I think that there are some obvious candidates

18 that have come out of the Working Groups.

19 Applied science programs I think is one of  
20 them.

21 Public education and outreach I think is  
22 another.

12706.A  
JWBeach

1                   And K through 12, or K through 16  
2                   education and graduate education are probably two  
3                   more than have come from REMO where there could be a  
4                   lot of benefit from consolidation of programs as  
5                   opposed to, you know, two fellowships here and one  
6                   over there that are rather disconnected.

7                   So I agree with you that there are lots of  
8                   things on this list that this was meant to be  
9                   illustrative, I think, of the kinds of functions that  
10                  might be consolidated but certainly would be added to  
11                  I would imagine quite extensively by the other  
12                  Working Groups.

13                  On the science policy linkage, or lack  
14                  thereof, discussion which we have had, quite often I  
15                  clearly have in the past expressed similar views as  
16                  Bill just stated about the need for linkage.

17                  I would have to point out on the lawsuit  
18                  side that in the Fisheries Service in many cases it

19 is the science that is the subject of the lawsuit.

20 So you can't say somebody else go away and deal with

21 the science issues that you've just been sued on.

22 Because you have to have scientists who actually

12706.A  
JWBeach

1       respond to the criticisms of the science, often by  
2       other scientists.

3               So even if you had it in an entirely  
4       separate agency, so then you would sue, you know, the  
5       Secretary of Commerce and the Secretary of the  
6       Fisheries Science Agency. That's how those lawsuits  
7       actually read.

8               So I don't think you really have the  
9       option of saying let's separate the scientists from  
10      the legal actions, either functionally or, as Bill  
11      said, you know, citizens have the right to sue. But  
12      the reason that scientists are engaged in some of  
13      those lawsuits is because it's the science that's  
14      been challenged.

15              So you can't then say to a, you know,  
16      somebody with a bachelor's degree serving as a policy  
17      specialist, you should respond to the scientific  
18      arguments challenging the science. You have to get a

19 high-level scientist to do that.

20 I also think they need to be in the same

21 agency for reasons that Bill cited, but I agree with

22 you that there needs to be a very careful crafting of

12706.A  
JWBeach

1 the lines of responsibility. And I think that is  
2 something you've described to me in the way that the  
3 Navy works.

4 I mean clearly the science enterprise is  
5 within the Navy, but the lines of reporting can be  
6 quite clear. I think that for the regulatory agency  
7 it is probably a little different because of the  
8 difference from the military organizations, but you  
9 still can be quite clear about the responsibility for  
10 developing the science enterprise as not wholly there  
11 to simply respond to regulatory needs, either short-  
12 term or long-term.

13 And so it is a matter of how you craft  
14 that structure. I don't think it is possible to  
15 separate them and just ask the regulation to go away.  
16 It's not going to go away.

17 But you can make sure that you communicate  
18 that the science enterprise has other

19 responsibilities as well, not simply to inform  
20 regulatory matters. And that seems to me to get to  
21 the central point of this issue.

22 CHAIRMAN WATKINS: Can I follow up? I

12706.A  
JWBeach

1 want to follow up on the legal thing.

2 I ran an agency that had no regulatory  
3 responsibilities. However, we were closely allied  
4 with the regulatory responsibilities of the Federal  
5 Energy Regulatory Commission, as well as the Nuclear  
6 Regulatory Commission. Nothing we did in science--  
7 and it was all science at the Department of Energy  
8 through 30 national laboratories and so forth--  
9 nothing we did other than look at the potential  
10 legal ramifications, for instance, in radioactive  
11 waste management in operation of reactors, and so  
12 forth.

13 We were very sensitive to regulation  
14 aspects of this thing. So I'm not sure that  
15 separating it makes any difference. My feeling is,  
16 if there is a perception that there's inside trading  
17 between your own researchers and the regulatory body,  
18 that's one thing. But, you know, my feeling is that

19     you have to be very sensitive to the regulatory side

20     in the science work.

21                     We did. We had to invest a lot of money

22     to straighten out the mess we had in losing court

12706.A  
JWBeach

1 cases across the country. Settling out of court for  
2 \$75 million, \$45 million, as though it was okay to do  
3 that. And we looked into the body of the  
4 information. We were doing a lousy job of doing the  
5 research necessary to get the relationship between  
6 human health and what we were doing at the sites.

7           So I'm not sure that this issue is an  
8 issue that cries out for some kind of change. I do  
9 think that if we ever find anybody with their hand in  
10 the till of trying to manipulate science to support a  
11 preordained regulation, then that should be hammered  
12 on an individual basis. But we shouldn't have a  
13 class action suit now against people that have both  
14 regulation and science in their same department  
15 because my experience is it doesn't make any  
16 difference, as long as people are trying to do their  
17 job.

18 MR. EHRMANN: Admiral Gaffney?

19 COMMISSIONER GAFFNEY: I tried to be

20 careful and I don't think I actually said, this time,

21 separate. I have in the past.

22 (Laughter.)

12706.A  
JWBeach

1                   COMMISSIONER GAFFNEY: I'm interested in  
2                   some kind of a check and balance to make sure that we  
3                   are solving the science problem so eventually we  
4                   won't have to resolve them in some other way by legal  
5                   methods or by arresting somebody, or by  
6                   over regulating them. The more we know, we will make  
7                   more progress.

8                   We've got to make sure that we keep our  
9                   eye on that ball, in my opinion, for the long term.  
10                  That is really my point. Some kind of a check and  
11                  balance.

12                  This discussion, if it gets recorded  
13                  somewhere in the report, will just help people  
14                  remember that for a couple of years.

15                  MR. EHRMANN: Commissioner Muller-Karger?

16                  COMMISSIONER MULLER-KARGER: Thank you.

17                  I have to also congratulate the Governance  
18                  Working Group for the work that they've done here.

19 This is the first time that I think I see this a  
20 little bit more clearly, so the questions that I ask  
21 are to clarify that as well as some other points that  
22 I want to make.

12706.A  
JWBeach

1                   I want to applaud the effort to establish  
2                   a framework to bring about change in the government,  
3                   and especially to make it adaptable to things as they  
4                   change. I think that is an important principle that  
5                   needs to be the core of this whole thing.

6                   I do agree that this National Ocean Policy  
7                   Framework is valuable, even if we have consolidation  
8                   of agency functions. I think Paul Gaffney mentioned  
9                   that no matter how much consolidation you have, what  
10                  you really want is a system where pieces complement  
11                  each other and serve a coherent function.

12                  So I think that even after consolidation  
13                  if we manage to get to that point, and I hope we do  
14                  in the long run consolidate some of the agency  
15                  pieces, a National Ocean Council that puts together  
16                  the right pieces when they're needed should be  
17                  retained in the long run.

18                  I have some questions that may seem

19 trivial, so if you'll excuse me for these.

20 We've come along over the many months in

21 trying to think about what this National Ocean

22 Council is all about. I have kept in mind that we

12706.A  
JWBeach

1 have a National Ocean Council at the present time,  
2 which is created by legislation, so I am trying to  
3 understand what the relationship is of that NORLC to  
4 this new Council.

5 In coming up to it yesterday, I thought it  
6 was the same thing that we would beef up, get teeth,  
7 get funds, and so on. And now I find yesterday that  
8 it is actually an additional thing.

9 So if we could enter into a little bit of  
10 a dialogue as to what exactly the relationship is  
11 between these two councils and how they work with  
12 each other I'd appreciate that.

13 COMMISSIONER RUCKELSHAUS: Well I think  
14 that Jim had a very good recommendation yesterday  
15 about how the NOLRC would fit into this, the National  
16 Ocean Council.

17 CHAIRMAN WATKINS: Let me try that. The  
18 existing law deals with research coordination between

19 federal agencies having funding responsibilities for  
20 the ocean. There are nine of those. So it's NORLC.  
21 It's focused on research coordination in a multi-  
22 agency fashion, and it includes more agencies that

12706.A  
JWBeach

1 get in the act that don't have the funding  
2 responsibilities for the programs but they do have  
3 oversight responsibilities such as the Office of  
4 Management and Budget, Office of Science Technology  
5 Policy, and so forth.

6 It does not encompass in any way national  
7 ocean policy. It has no connection with it. It is a  
8 research organization. And it becomes the component  
9 in our concept here of supporting the NOC.

10 The NOC may have some of the same members  
11 who, in our concept, who now sit on the NORLC, which  
12 happens to be people like the Director of the  
13 National Science Foundation, the Administrator of  
14 NASA, the Administrator of NOAA, and so forth. They  
15 may be the members that sit on the new NOC. And the  
16 context in which the NORLC, if we're successful, it  
17 will change slightly because they will become the  
18 action persons for the secretaries of the agency

19       within the support of the Office of Science and  
20       Technology Policy for example on the one hand, CENR,  
21       specially under the National Science and Technology  
22       Council, but they will also be supporting the NOC in

12706.A  
JWBeach

1 its science to policy linkage that we talked about in  
2 this initiative.

3 So I see them as quite complementary and  
4 not in any way adding on to something. So I don't  
5 see--when we talk about the possibility of a National  
6 Ocean Policy Act, I don't see it in conflict with the  
7 current National Ocean Policy Act. They should be  
8 made complementary to each other in time, but they  
9 are quite different.

10 One deals with national ocean policy in  
11 its broadest context. One is very closely allied  
12 with the science component, which is good. But it  
13 can stay in place, and that is our intention.

14 COMMISSIONER MULLER-KARGER: Thanks. I  
15 have several questions.

16 MR. EHRMANN: Did you want to comment on  
17 that point?

18 COMMISSIONER COLEMAN: Yes. I want to

19     indicate that what you said, Admiral, is entirely  
20     correct.  If you remember, the one point we had  
21     yesterday is that the NORLC reports to and takes  
22     direction from the NOC.  I think to me that separates

12706.A  
JWBeach

1 out their functions.

2 As the Admiral said, one is at a policy  
3 level; the other is at a research level.

4 MR. EHRMANN: Very good. Thank you.

5 COMMISSIONER MULLER-KARGER: I have other  
6 questions, so let me find them here in my notes.

7 Going back to something Paul Gaffney  
8 brought up, it may have been addressed already, but I  
9 have the same questions on budget--authority and  
10 budget process at the national level, but at the  
11 regional level. So there's several levels.

12 If a group of people in a particular  
13 region or in a particular region come up with a  
14 requirement or a need that needs to be addressed,  
15 what is the process for them to go through the  
16 National Ocean Council and then through OMB? How  
17 many layers do they have to go through to plan for  
18 solving their problem? Or do they have a prescribed

19 budget? How does that work?

20 COMMISSIONER RUCKELSHAUS: Well all of

21 that is what we're talking about in phase one, Frank,

22 that needs to be worked through.

12706.A  
JWBeach

1                   If there is a regional council that has  
2           budgetary needs, those budgetary needs presumably  
3           would go up through the process, through the National  
4           Ocean Council, that would in turn make  
5           recommendations to OMB as to what it takes to fund  
6           these efforts.

7                   I don't see the funding itself as being a  
8           very big item. The people that would be from the  
9           Federal Government, part of these regional councils  
10          are already in the regional offices now that are  
11          funded through their own agency--EPA, NOAA, they all  
12          have regional offices that are funded now through  
13          their normal budgetary cycles.

14                   COMMISSIONER MULLER-KARGER: This is going  
15          back to the agency reorganization bullets. I am of  
16          the mind that we do have to keep science and  
17          management together, including physically together,

18     so that one feeds their requirements to the other and  
19     the information feeds back in as seamless a fashion  
20     as possible.

21                     So while there may be separate lines of  
22     responsibility and reporting, I think that the flow

12706.A  
JWBeach

1 of information among the working people needs to  
2 really flow continuously.

3 It is very important to provide the  
4 requirements to the scientists and the information  
5 back to the managers. That loop has to be very, very  
6 tight.

7 Now on the second slide on federal agency  
8 reorganization in the list of things that appeared  
9 there, one of the things I have been harping on from  
10 the beginning and that I want to make sure is not  
11 lost here is that whatever we do needs to read to  
12 regional sustainability and self-sufficiency of these  
13 regions.

14 I want to make sure that whatever we do  
15 with these federal agencies, that even if it is  
16 called coordination, and I know that some agencies  
17 are already starting to coordinate without looking to  
18 the outside so they tend to streamline their programs

19 internally so there is less duplication and there is  
20 less, what I don't want to see is that they inhibit  
21 or don't foster the regional local capabilities that  
22 may exist in academic and commercial entities, or

12706.A  
JWBeach

1 even in the public.

2                   So I think we need to keep that--I mean,  
3 the Federal Government needs to serve the people in  
4 these regions, and the people have certain  
5 capabilities that should not be inhibited or  
6 curtailed because you are going to coordinate better  
7 within the Federal Government.

8                   I want to make sure that this is--

9                   COMMISSIONER RUCKELSHAUS: The purpose of  
10 the coordination is not to thwart the will of the  
11 American People. What is happening now is the lack  
12 of coordination is frustrating the American People  
13 because they see two agencies of government going in  
14 different directions instead of solving the problem.

15                   COMMISSIONER MULLER-KARGER: Right.

16                   COMMISSIONER RUCKELSHAUS: And bringing  
17 them together would be for the purpose of serving the  
18 people, just as you suggest.

19                   COMMISSIONER MULLER-KARGER: I know that  
20    in words that's what we all want to do. In practice  
21    that's not always what happens.

22                   (Laughter.)

12706.A  
JWBeach

1                   COMMISSIONER RUCKELSHAUS:  You're right,  
2                   but I don't know what we can do other than urge them  
3                   not to do it.

4                   COMMISSIONER MULLER-KARGER:  Yes.

5                   COMMISSIONER RUCKELSHAUS:  And the  
6                   emphasis on organization--on coordination is  
7                   precisely for the purpose that you're concerned  
8                   about.  Not so that the agency becomes stronger and  
9                   therefore more able to thwart the will of the people,  
10                  but that they become better public servants as a  
11                  result.

12                  COMMISSIONER MULLER-KARGER:  Right.  
13                  Right.  And I think that we need to be explicit that  
14                  whatever capabilities exist in a region should be  
15                  used, and new capabilities and new technologies, new  
16                  knowledge should be fostered in these regions outside  
17                  of--the federal agencies can coordinate this and

18 orchestrate this, but let entities outside the

19 government flourish also.

20 I think that's about what I have right

21 now.

22 MR. EHRMANN: Commissioner Borrone on this

12706.A  
JWBeach

1 point.

2 COMMISSIONER BORRONE: Thank you.

3 Frank, on page 7 we tried. Perhaps we  
4 didn't say it as eloquently as you're asking, where  
5 we talked about the enhancement of capacity to  
6 coordinate. We were really thinking, as you are  
7 describing it, that we want to really draw on the  
8 capacity that exists in regions and bring it into a  
9 more effective dynamic so that we are utilizing the  
10 capabilities that already exist, or enhancing the  
11 opportunity for the capabilities to emerge.

12 I think, you know, it's a good caution.  
13 Maybe we can try and think about how we worded this  
14 one to make the point you're making.

15 COMMISSIONER MULLER-KARGER: Right. Thank  
16 you.

17 MR. EHRMANN: Commissioner Coleman?

18 COMMISSIONER COLEMAN: Thank you.

19 Bill, your Working Group's late night last  
20 night has really opened my eyes because, until this  
21 point, I really did not understand the major  
22 framework. And I do understand it very clearly now.

12706.A  
JWBeach

1 So I want to compliment you on it.

2 I also want to compliment you on your  
3 reorganization. I think basing it on those  
4 principles is something I have not heard before, and  
5 I really am pleased to see that and support that very  
6 strongly.

7 Now that I've complimented you, let me ask  
8 some questions. As you know, I have expressed in  
9 previous meetings my concern about the regional  
10 councils of all sorts. And the reason for that  
11 concern is that, at present each state has a coastal  
12 commission, an estuarine commission, an estuarine  
13 council, and they each value their own rapport with  
14 the governor and so forth. So it is a political  
15 organization in many cases.

16 I see that setting up regional councils,  
17 although I can see one aspect that would be great,

18 the coordination, I can also see tremendous conflicts  
19 in the future.

20 So I would urge you to go along that pilot  
21 process first. I think that's something else I've  
22 seen for the first time, and I think that that

12706.A  
JWBeach

1 approach--and if it doesn't work, wipe it out. But I  
2 do have a question about assuming that the councils  
3 will go on. I guess I'm the only voice against  
4 them--and I will support it--but I do have a  
5 question.

6                   On page 5 of ours, I think number 10,  
7 where it says "guidance of the National Ocean  
8 Council"--no, I'm sorry, it's the one before that.  
9 Nevertheless, you outline all the functions of these  
10 councils, and yet you say let's not include the  
11 Fisheries Council, the Regional Fisheries Council.

12                   I could use that same argument and say:  
13 Well, instead of establishing a regional council, why  
14 don't we set up a wetlands council, a regional  
15 wetlands council? Why don't we set up a regional  
16 coastal zone management council? Why don't we set up  
17 regional estuarine councils?

18                   In other words, if we're going to make the

19 regional councils work, a very important component of  
20 that is indeed the Fisheries. So why not include  
21 them? So that's the major question that I have.

22 COMMISSIONER RUCKELSHAUS: The main

12706.A  
JWBeach

1 reason, if you turn to page 16, Tim, where we talk  
2 about Regional Coastal Governance--I think that's  
3 what you're referring to where we exclude the  
4 fisheries?

5 COMMISSIONER COLEMAN: Yes, right.

6 COMMISSIONER RUCKELSHAUS: The reason for  
7 that is, this body and the National Ocean Council,  
8 which we're recommending be created that would in  
9 fact work toward the creation of these regional  
10 councils, and it probably would take a statute to do  
11 it--

12 COMMISSIONER COLEMAN: Yes.

13 COMMISSIONER RUCKELSHAUS: --we're not  
14 suggesting these regional councils operate in the  
15 place of all of these other regulatory ore management  
16 regimes that have been set up. And in fact, if it  
17 appears to the regional fishery managers or the  
18 regional NOAA or EPA administrators that by joining

19 in such a council they're giving up some statutory  
20 responsibility they've been given by Congress, they  
21 really can't do it. The Congress would have to step  
22 in and say we want you to exercise this authority

12706.A  
JWBeach

1 under the regional council.

2 I don't think any of us see that as the  
3 regional council's function. We're not asking them  
4 to be operational. We're asking them to facilitate  
5 where there's multiple agencies charged with similar  
6 responsibilities in a region--coastal zone management  
7 is an example--we're seeing these councils as  
8 facilitating and helpful mechanisms to pull together  
9 the agencies and departments of government that are  
10 now pulling in different directions.

11 And we're not asking them to give up their  
12 responsibility by joining them. Let me give you an  
13 example of what I'm talking about.

14 We formed much the way I think a regional  
15 council would form by a pilot project, or by a--what  
16 do we call them here--panels, by creating these  
17 panels, a group in Puget Sound to pull all the  
18 agencies, federal, state, local, tribal, to pull

19 together to deal with an endangered species.

20                   We had no authority to do that. And one  
21 of the things we had to guarantee people before they  
22 would show up at the meeting is that nobody is asking

12706.A  
JWBeach

1 you to give up any responsibility you have under your  
2 existing law. This was very troublesome to the  
3 tribes because they thought they might have to give  
4 up some treaty rights by showing up at a group like  
5 this. We had a specific agreement with them that  
6 said you do not give up any assertion of treaty  
7 rights that you have.

8 All we're suggesting is that by pulling  
9 together in a single boat with the same set of oars,  
10 we're a lot more likely to make progress than we are  
11 if we're in separate boats or we're pulling in  
12 different directions in the same boat.

13 And that rationale was overwhelming to  
14 them as a reason for getting together and working in  
15 the same context. And that is why I think it is  
16 important before these agencies would enter into  
17 something like this that you not--we're not telling  
18 you that you give up any responsibility you have, or

19     you give away any rights in the case of a treaty

20     right to a tribe.

21                     It may be that over time you would decide

22     to try to consolidate some of those functions, or try

12706.A  
JWBeach

1 to put them together. That's not the rationale for  
2 pulling people together in the first instance. And  
3 that's why we've made that explicit in this  
4 recommendation.

5 MR. EHRMANN: Commissioner Hershman on  
6 this point?

7 COMMISSIONER HERSHMAN: Yes. Tim, I am  
8 sensitive to the concern that we're adding another  
9 layer on top of organizations that already exist that  
10 really ought to be doing something like this.

11 I think there are a couple of things we  
12 ought to keep in mind. First, that each regional  
13 council determines the issues of importance to them.  
14 My guess is that they won't even address anything  
15 that is not a multi-state issue or problem.

16 And the other thing that I  
17 hope would be a particularly important subject is  
18 looking offshore. And here I think the imperative

19 for a regional organization is much greater, just  
20 because the farther offshore you get the greater  
21 interest it is to a number of states not just one  
22 state.

12706.A  
JWBeach

1 I even took the time to develop what a  
2 regional council in the Gulf of Mexico might address  
3 if it were looking at new emerging uses in the Gulf  
4 of Mexico in conjunction with all of the infrastructure  
5 that has already developed there in the offshore oil  
6 and gas industry.

7 It seems to me that that begs for a regional  
8 approach, not a state-by-state approach. So I just  
9 want to reassure you that I think there are four  
10 particular regions with certain issues that really  
11 cry out for some regional organization or regional  
12 approach, and this is a mechanism to facilitate being  
13 able to address that more quickly and more  
14 efficiently.

15 COMMISSIONER COLEMAN: Marc, I take your  
16 point and I understand that, but I can by the same  
17 token use some examples of that from a regional  
18 standpoint that would result in severe conflict.

19                    Just take oil and gas leasing in the Gulf  
20       of Mexico if you had Florida, Alabama, Mississippi,  
21       Louisiana, and Texas in that region. Can you imagine  
22       the conflicts that would occur there?

12706.A  
JWBeach

1                   COMMISSIONER HERSHMAN: That is also a  
2 point well taken. That would be a challenge.

3                   MR. EHRMANN: I want to take a couple of  
4 Commissioners who have been waiting and see if we can  
5 get those comments in before we take the 10:45 break.

6                   Commissioner Ballard and then Commissioner  
7 Sandifer.

8                   COMMISSIONER BALLARD: Yes, I just wanted  
9 to sort of run a trial balloon through this.

10                  Looking at vu-graph number three on page  
11 two and you say that the National Ocean Council will  
12 be composed of cabinet secretaries of ocean agencies  
13 and directors of independent ocean agencies, and then  
14 you go to page 9, vu-graph 18, and you say that: We,  
15 the Commission, believe that consolidation is  
16 warranted.

17                  We say the Commission believes it is a  
18 function of the NOC, which we just defined who they

19 are, to have an ongoing responsibility to look at  
20 consolidation opportunities for federal agencies.

21                   Okay, so we move forward. And then the  
22 National Ocean Council says, all right, we're going

12706.A  
JWBeach

1 to go to our Advisory Council  
2 that we have beneath us. We are going to ask our  
3 Advisory Council to look at the wishes of the  
4 Commission for consolidation and reorganization.

5 And let us just hypothetically say that  
6 that advisory group then comes back to the National  
7 Ocean Council and says we think the Marine Geology  
8 Program in the U.S. Geological Survey should be moved  
9 over to NOAA.

10 What happens? The Secretary of Interior  
11 says 'I don't think that's a very good idea.' Now  
12 what?

13 COMMISSIONER RUCKELSHAUS: You've just  
14 defined why consolidation is so difficult. If I were  
15 a member of an Advisory Committee and the head of the  
16 National Ocean Council gave me that assignment, I  
17 would seriously consider quitting the Advisory  
18 Committee--

19 (Laughter.)

20 COMMISSIONER RUCKELSHAUS: --because that  
21 is not the kind of thing--that is not the advice that  
22 cabinet and other members tend to take.

12706.A  
JWBeach

1                   On the other hand, if the President were  
2           to say, look, this is running very inefficiently. I  
3           want you, my Presidential appointee who is the head  
4           of that Commission to work with these other agencies  
5           through a task force that we will establish here at  
6           the White House to determine how we might make the  
7           government run more efficiently and effectively, but  
8           then they'll pay attention.

9                   COMMISSIONER BALLARD: That then means  
10          that reorganization occurs every election.

11                   COMMISSIONER RUCKELSHAUS: Not  
12          necessarily, no. It usually occurs before,  
13          considerably before--after an election is when it  
14          occurs.

15                   (Laughter.)

16                   COMMISSIONER BALLARD: But I mean that  
17          that means that every government appointee every time  
18          there is a person selected to sit in this office they

19 say, okay, let's reorganize.

20 COMMISSIONER RUCKELSHAUS: No, not  
21 necessarily. Not once they've been through it.

22 COMMISSIONER BALLARD: Well that's why I'm

12706.A  
JWBeach

1 just walking this through. Because if we don't make  
2 specific recommendations, we're passing on a process  
3 as opposed to recommendations. That's my concern.

4 COMMISSIONER ROSENBERG: There are two  
5 things about this, if I may. The first is, I mean  
6 you can't avoid the Cabinet Secretaries. I don't  
7 care whether we make a recommendation, or who makes a  
8 recommendation, it's still going to have to go before  
9 the Cabinet Secretaries who are going to work out  
10 whether that consolidation is going to occur.

11 And so if it's put forward as a task with  
12 somebody to lead that as a specific effort, I have  
13 every reason to believe that there is as good a  
14 chance as any, which is always difficult given that  
15 people are obviously protecting their departments to  
16 some extent.

17 But on the other hand, I don't think it's  
18 always every election. Because every Cabinet

19 Secretary, of course, is appointed. I mean it's not  
20 as if the Cabinet Secretaries usually come from  
21 inside the agencies, or often even inside Washington.

22 So I don't see why, first of all, we would

12706.A  
JWBeach

1       imagine that it would be possible to avoid that group  
2       even if we decided somebody else should make a  
3       recommendation. It's still going to have to go to  
4       those same people. And it's not entirely clear to me  
5       that the position will always be I'm not giving up  
6       anything.

7                        You know, there was a directive on  
8       Homeland Security and, as ugly as it was, it resulted  
9       in a lot of change because there was enough push from  
10      the administration that had just--

11                      COMMISSIONER BALLARD: Yes. I'm just  
12      concerned that without specific recommendations we're  
13      punting.

14                      COMMISSIONER RUCKELSHAUS: Punting is, you  
15      know--I would call it to your attention, Bob, the  
16      recommendations that have come from the Commissioners  
17      themselves about reorganization.

18                      If you have a set of boxes that would fit

19 all of those recommendations, then you would be

20 welcome with open arms in this Commission.

21 We are all over the map on that as a

22 Commission. We have had other recommendations come

12706.A  
JWBeach

1 to us from outside, and I think a very useful  
2 function for this Commission to play is to say here  
3 are the kinds of functions we have found as we've  
4 listened to people and moved around the country and  
5 listened to agencies that could really help the  
6 government if they were consolidated. And here are  
7 the principles that you should follow in determining  
8 whether that consolidation makes sense.

9           It is the same question you raised. What  
10 power does that advisory committee have to make a  
11 reorganization? None. Neither do we. It still has  
12 to go before the President, who would submit it to  
13 the Congress, and the Congress would have to decide.

14           The Congress could do it on its own. And  
15 there is a list in here under Tab 3(b) of the number  
16 of reorganizations that have been submitted to the  
17 Congress in the last 30 years. Most of them have

18 never gotten out of the committee. And none of the  
19 have passed.

20                   So I don't see it as "punting"; I see it  
21 as a recognition of the kind of dynamics that have to  
22 take place in order for a reorganization to be a

12706.A  
JWBeach

1 reality.

2                   And who in a better position to do that  
3 would be someone reporting directly to the President  
4 who is sitting over as the chairman of a number of  
5 agency heads who in turn would have to give up or  
6 gain something as a result of a reorganization.

7                   COMMISSIONER BALLARD: But all our cards  
8 are riding on that person being created.

9                   COMMISSIONER RUCKELSHAUS: Well we can do  
10 this any way you'd like, Bob. We could create a  
11 cabinet office. That means all the cards are riding  
12 on that, which also takes a statute to do. We could  
13 create an independent agency. That takes a statute  
14 to do.

15                   This takes the action of one man, the  
16 President. And if he is serious about trying to deal  
17 with the oceans, he can take that action and have a  
18 significant effect on the development of ocean

19 policy.

20                   If he's not, if he doesn't want to do it,

21 it is his prerogative. But if he doesn't want to do

22 it, he doesn't have to do any of these things. There

12706.A  
JWBeach

1 is nothing that we can recommend that can be done  
2 absent his support.

3           Those areas where we can have some impact,  
4 either through the Congress or through a direct  
5 effect on agencies, we have made recommendations  
6 along those lines. But it is true in a lot of these  
7 areas that if he's not concerned, if he doesn't  
8 respond about it, then it will be true of any  
9 recommendation we make that's significant, major  
10 recommendation. It won't go anywhere.

11           Yes, we are assuming he's interested.  
12 He's going to be receptive, and he is going to do it.

13           CHAIRMAN WATKINS: Before we take a break  
14 and close out this issue, I just want to again add my  
15 congratulations to the Governance Group. I think the  
16 degree of maturation that has taken place here over  
17 these last three public meetings has been  
18 significant, and I think your identifying of these

19 functions under NOC is absolutely critical to our  
20 work and will help us write our report.

21 I also commend you for using the term  
22 "and" in your first slide. "And" is very important

12706.A  
JWBeach

1 if we can achieve it. The ideal goal is to have an  
2 Executive Order buttressed by permanent legislation.

3 When we've had it on a number of  
4 occasions, we have had continuing administrative  
5 support for something that otherwise would have  
6 changed with Administration policies of Democrat and  
7 Republican.

8 So I think the "and" is, if we can achieve  
9 it, to have both Executive Order and an immediate  
10 response from the Congress that they like it and to  
11 put it into law in cooperation with the White House  
12 working on a piece of legislation is the best of all  
13 worlds.

14 On the issue on the other slide of NOC  
15 functions on data and information, generally what the  
16 Commission has heard to date is scientific data  
17 rolling into a virtual common data set or access  
18 protocol management. Those things are very

19 important. And out of that flows a whole host of  
20 user friendly kind of products that need to be  
21 resolved.

22 There are other pieces of information. I

12706.A  
JWBeach

1 just want to again state that we have embodied in the  
2 Commission work to date a library of ocean policy  
3 information that nobody in this government has, and  
4 nobody has ever had it.

5 I am talking about the legal review. The  
6 aspects of looking at 140 laws and how they have  
7 discontinuities between them that have to be  
8 reconciled.

9 The whole issue of what are the facilities  
10 that we have in marine policy in this country to  
11 bring to bear private, public, and so forth; that's  
12 being done for the first time. We don't want to lose  
13 those. They're in digital form, and they can be  
14 dynamically maintained and in many cases up to date.

15 So we have a repository of information  
16 that is the best the Nation has ever had, in my  
17 opinion, that had never existed before. And we are  
18 still struggling with some of those to get them

19     alive.

20                     So the information there is also a library

21     of National Ocean Policy information that is

22     absolutely vital, portions of which will have to be

12706.A  
JWBeach

1 maintained on a periodic basis.

2 So without any objection from the  
3 Commissioners, I hope you would allow us to include  
4 in the report information systems that go beyond what  
5 we have conventionally thought of as science to user  
6 products. Those are my only comments. I don't know  
7 if that has any further need for discussion.

8 MR. EHRMANN: I think there are a couple  
9 more Commissioners who want to make a comment, Mr.  
10 Chairman. Maybe we should get those in so that we  
11 can close on this topic and delay the break just a  
12 couple of minutes and then come back and pick up with  
13 the next part of Mr. Ruckelshaus's presentation.

14 So Commissioner Sandifer, and Commissioner  
15 Muller-Karger.

16 COMMISSIONER SANDIFER: Thank you.

17 When I began my comments a few minutes  
18 ago--now an hour ago--I mentioned I wanted to come

part

19 back to reorganization. I do think this is the weakest

20 of the presentation yet and it's going to require

21 some more work, but I am appreciative of the

22 difficulties involved and I do like the functional

12706.A  
JWBeach

1 approach.

2           The list of functions needs some work, as  
3 several Commissioners have pointed out, and I will  
4 take this opportunity to remind you about issues  
5 related to international leadership and operations  
6 and enforcement need to be included along with  
7 education and some other things there.

8           But we start the National Ocean Council  
9 part talking about the need for international  
10 leadership by the United States, and we need to do  
11 that to carry through and consolidate those functions  
12 and do a better job at the agency level as well.

13           Secondly, I think many Commissioners have  
14 now made excellent points about the need for science  
15 to be within not separate from regulatory agencies.

16 That does not mean, though we have eliminated the  
17 potential for consolidation of scientific activity.

18 That doesn't mean that every unit, or every line

19 office, or however the agencies are organized, needs  
20 to have a separate and usually seriously under-funded  
21 scientific infrastructure of its own.

22 It means that the agency needs to have a

12706.A  
JWBeach

1 science infrastructure.

2                   And finally, in response to Commissioner  
3 Coleman's concerns about the regional ocean councils,  
4 for many of us we see this clearly as not a  
5 regulatory function; not to supersede either the  
6 Regional Fisheries Management Council's MMS or any of  
7 the existing either regional or state regulatory  
8 authority, but to provide the essential framework, a  
9 meeting framework literally, in which critical  
10 ecoregion/ecosystem planning can be done, and the  
11 opportunity for group like Fisheries Managers and  
12 other kinds of groups, coastal zone managers,  
13 watershed managers, to actually get in a place where  
14 they can share common issues, talk about issues  
15 without having to give up any of their own legal  
16 authority.

17                   That forum really does not exist. This

18 would I think provide it, and then better inform the  
19 decisions of regulatory or management decisions that  
20 those individual entities would then be taking.

21 COMMISSIONER KELLY: I'll also give up.

22 (Laughter.)

12706.A  
JWBeach

1 MR. EHRMANN: Dr. Muller-Karger. Oh, I'm  
2 sorry.

3 COMMISSIONER KELLY: Paul, as we said  
4 before, this does not necessarily mean new buildings.

5 COMMISSIONER SANDIFER: Only at the  
6 University of South Florida.

7 (Laughter.)

8 COMMISSIONER MULLER-KARGER: Thank you. I  
9 want to go back to what Bob Ballard brought up in  
10 terms of the reorganization issues.

11 I do agree that that is the weakest part  
12 so far in the presentation. However, we have come a  
13 long way, and I think we are intimately familiar with  
14 what the agency missions are. We know it. We know  
15 what they are supposed to do.

16 We have started with a very good paper on  
17 what the conflicts, gaps, and duplication issues are.  
18 And we have drafted some example solutions. So I

19 think we have gone way beyond just moving boxes to

20 what may or may not be somebody's favorite agency.

21 I think we have addressed functions, and

22 we have a lot of examples where there are real

12706.A  
JWBeach

1 problems in the agencies that have to be addressed,  
2 and I think there is no better place than to put it  
3 explicitly in this report. And I don't think that we  
4 should shy away from that in any way.

5 MR. EHRMANN: Very good.

6 Mr. Chair, let me suggest that we take our  
7 15-minute break and return at--

8 CHAIRMAN WATKINS: We will return at 10  
9 minutes past 11:00.

10 MR. EHRMANN: Thank you.

11 (Recess.)

12 CHAIRMAN WATKINS: The Commission will  
13 come back to order, and we will turn it back over to  
14 the Chairman of the Governance Committee to continue  
15 his work on offshore oil and gas is the first issue.

16 (Slide.)

17 COMMISSIONER RUCKELSHAUS: We have

18       struggled mightily as a working group to figure out  
19       what we might say that would help regarding the  
20       offshore development of oil and gas.

21                       As I think all of you know, there are  
22       currently moratoria on the development of oil and gas

12706.A  
JWBeach

1 offshore everywhere in the country with the exception  
2 of central and western Gulf of Mexico, a very thin  
3 sliver of an area in the eastern Gulf of Mexico, and  
4 parts of Alaska.

5           We have not yet decided if there is  
6 anything we could say that would be useful in  
7 advancing our offshore development policies. When I  
8 use the word "advance," one person's advance is  
9 another person's retreat. So there really isn't an  
10 agreement on "advance."

11           In this case, I think we have to be guided  
12 by the desire to make progress versus make a point,  
13 but we do have some recommendations to make. We have  
14 not yet decided whether we want to go further than  
15 these recommendations, and the question is what would  
16 our voice usefully add to the debate that is highly  
17 emotional and quite mature over this issue.

18           The first bullet there indicates that some

19     portion of the revenues from the Federal Government  
20     from the extraction of nonrenewable offshore oil, or  
21     offshore energy resources we believe should be  
22     invested in the conservation of renewable ocean and

12706.A  
JWBeach

1 coastal resources through grants or other means of  
2 transfer to all coastal states, and an allocation at  
3 the national level for the advancement of marine  
4 science efforts to support such conservation.

5 We think that the currently producing  
6 states should receive a larger share of this portion  
7 to address the environmental and socioeconomic  
8 impacts of energy activity because they are suffering  
9 the most impacts from that kind of activity.

10 We think we should increase and coordinate  
11 the funding for environmental studies. That doesn't  
12 sound like much of a recommendation, but there are a  
13 lot of studies that are currently going on, some of  
14 which the budgets are being reduced.

15 We think we need to find out more about  
16 the effects, environmental and other effects, related  
17 to offshore oil and gas, including the socioeconomic  
18 effects of oil and gas development. Next slide.

19 (Slide.)

20 We are suggesting that, consistent with a

21 National Research Council report called Oil In The

22 Sea III, that we need to carefully evaluate the

12706.A  
JWBeach

1 government and industry in this case.

2           The risk to the marine environment posed  
3 by some offshore and onshore infrastructure,  
4 particularly in the Gulf of Mexico, which is aging  
5 and thereby might represent a threat to the  
6 environment, that's the issue that the National  
7 Research Council in its report that has just come out  
8 has raised.

9           We think it is important to increase the  
10 research and development in science and engineering  
11 to determine whether methane hydrates can be a part  
12 of the solution for the Nation's long-term energy  
13 needs.

14           The potential there is huge. The  
15 difficulties in removing the fuel from these methane  
16 hydrates is not insurmountable, but it is quite  
17 large. We think the investment by the country in the  
18 potential for developing these deposits primarily in



12706.A  
JWBeach

1 think that was made by REMO yesterday: The  
2 establishment of an ocean observing system to a  
3 cooperative partnership with the oil and gas industry  
4 that uses the infrastructure, including research,  
5 that is already there in a way that allows a transfer  
6 of nonproprietary data to research and academic  
7 institutions.

8 I think, Jim, that should be combined with  
9 your recommendations on ocean observing system. And  
10 that this really is an international--we don't  
11 emphasize that as much in this slide, but it is an  
12 international opportunity as well as national.

13 Well why don't we just stop there and get  
14 reactions.

15 MR. EHRMANN: Comments, questions on this  
16 section? Admiral Gaffney?

17 COMMISSIONER GAFFNEY: On the second

18 bullet of the--no, the one that was just showing.

19 Thanks. I agree I have great interest in this topic,

20 and I would just make the additional point that,

21 looking at the geopolitical advantage of methane

22 hydrates, not just the economic value, is important,

12706.A  
JWBeach

1 especially if you look at the world situation at this  
2 particular minute.

3 MR. EHRMANN: Thank you. Dr. Coleman?

4 COMMISSIONER COLEMAN: I had the same  
5 comment exactly, and I didn't even look at his notes.

6 (Laughter.)

7 COMMISSIONER COLEMAN: I think the  
8 geopolitical aspect is very important.

9 I would also--and I hope you mention in  
10 your report and justification for this--that you make  
11 the point that, yes, methane hydrates, gas hydrates,  
12 are an environmentally clean source of energy for the  
13 future. I think that is a very critical point.

14 MR. EHRMANN: Commissioner Kelly?

15 COMMISSIONER KELLY: Mr. Chairman, I have  
16 an additional recommendation that I would like to put  
17 on the floor at this time, if we could have it called

18 up on the screen.

19 In our discussions on Governance on  
20 Tuesday in particular we discussed the whole process  
21 of offshore leasing and the interaction particularly  
22 between the states and the federal agencies on this

12706.A  
JWBeach

1 issue and the processes for input by the governors  
2 under both the Outer Continental Shelf Lands Act and  
3 the Coastal Zone Management Act.

4 I think we agreed that there is a very  
5 good process that is in place. Yet, in the end there  
6 has to be a final decision maker on decisions  
7 relating to offshore oil and gas development, and the  
8 last is structured so that that is the Secretary of  
9 the Interior.

10 And in the case of some states, if the  
11 process in the end does not permit them to say no to  
12 a development decision, they have then gone to  
13 litigation or to the Congress to obtain moratoria on  
14 funding for leasing in those areas. And of course we  
15 have the Presidential moratoria.

16 I think we agreed that what we have is  
17 really not a problem with process but more a  
18 political problem. In this context, I think that one

19 of the things that could help is expanded education  
20 and outreach. And that is what I've done in drafting  
21 this recommendation for your consideration.

22 There are programs underway. There have

12706.A  
JWBeach

1     been some interesting publications done by the  
2     Department of Energy and the Minerals Management  
3     Service. The industry has some education and  
4     outreach programs, and indeed there is a  
5     nongovernmental organization that has gotten  
6     interested in this whole subject in terms of  
7     educating K through 12 school children.

8                     There is a very successful program  
9     underway nationally now. But I think that one thing  
10    that is called for here is just a better  
11    understanding of the whole process of the importance  
12    of the offshore to our future energy supply as  
13    sources onshore deplete, and as the advances in  
14    technology that have made offshore exploration very  
15    exciting in a global context to the point where  
16    pretty much any country that believes it has  
17    prospects for oil, gas, or other minerals is

18 welcoming the American offshore industry to a system  
19 in developing these minerals.

20                   So this resolution is suggested in order  
21 to encourage better understanding by the American  
22 public in these issues, and I welcome comments on it.

12706.A  
JWBeach

1                   MR. EHRMANN: Let me ask the Commissioners  
2                   in the next round to just be commenting on this  
3                   proposal, and then we will go back to other comments  
4                   in addition.

5                   Commissioner Ballard?

6                   COMMISSIONER BALLARD: Yes. When we had  
7                   our Northeastern Regional meeting, we walked into the  
8                   wind controversy up there. I was curious if the  
9                   educational outreach you're talking about could be to  
10                  other forms of energy, as well, including what we  
11                  just talked about the hydrates. But geothermal, you  
12                  know, there's been several other testimonies we've  
13                  received from other people around the country of  
14                  alternative energy sources.

15                  I would think that--would you object to  
16                  having this broadened to include those?

17                  COMMISSIONER KELLY: Not at all, Bob. In

18 fact, that is an excellent suggestion. I think that  
19 Commissioner Sandifer had some thoughts along those  
20 lines, too, to extend it to possibly not even  
21 additional energy sources, but other new activities  
22 that we see developing in the offshore area.

12706.A  
JWBeach

1                   MR. EHRMANN: I would point out that the  
2 next section Mr. Ruckelshaus will review from the  
3 Governance Working Group does have to do with  
4 existing and emerging uses. This is just to point  
5 that out, but this is certainly relevant to the  
6 discussion of this proposal. So I think it's a good  
7 suggestion.

8                   Dr. Sandifer, did you have another comment  
9 on this?

10                  COMMISSIONER SANDIFER: Yes. Thank you.

11                  Bob, I agree entirely here. I thought  
12 Paul Kelly's recommendation here is an excellent one.  
13 It should be expanded to be more  
14 prospective than simply the oil and gas industry,  
15 whether it's, there may be other mineral issues,  
16 other kinds of things, but your point is well taken  
17 about geothermal, wave energy, current energy, wind  
18 energy, and so on.

19                    I have one further suggestion. That is,  
20                    that this not rely solely on the Department of Energy  
21                    or the Minerals Management Services education  
22                    program. Those programs are certainly excellent.

12706.A  
JWBeach

1 They can be built upon.

2 My concern is that those are special  
3 cases, and perhaps the better way to handle this is  
4 to build an education effort into the overall  
5 national ocean education effort that we are talking  
6 about. We place that at such a high priority of so  
7 many things, this is just simply one more portion of  
8 the mix that needs to get included in the national  
9 education.

10 It gives a very balanced picture, then, to  
11 the American people, and particularly to young  
12 people, and it is not isolated out as all by itself  
13 in any way.

14 So, Paul, as you and I were just chatting,  
15 that is my only other recommendation: that it become  
16 part of the overall education picture, not just a  
17 special case.

18 COMMISSIONER KELLY: That is a good

19 suggestion, Paul.

20 MR. EHRMANN: Commissioner Hershman?

21 COMMISSIONER HERSHMAN: Paul, thank you

22 very much. That is an excellent addition to this

12706.A  
JWBeach

1 section of our report.

2 I would just expand on what Bob Ballard  
3 and Paul Sandifer said. In constructing the  
4 education program, the more it can be looking at the  
5 new uses from multiple perspectives I think the more  
6 it will come across as a credible educational effort.

7 If it were to come only from those who are  
8 responsible for the production of energy, for  
9 example, it might be not viewed as openly as if it  
10 came from a more broad-based group.

11 So to the extent that the entities  
12 involved in constructing this might also include  
13 those interested in other aspects of the ocean--  
14 living resources issues, environmental quality, and  
15 all of that--and the construction of the education  
16 program, it just might have more impact later on.  
17 It's just a thought that I would pass along.

18

COMMISSIONER SANDIFER: Very quickly.

19

Paul, I don't know if it's going to be reflected in

20

the report anywhere because I haven't seen this in

21

the Marine Ops Section yet, but I think one of the

22

elements that would be of extreme interest from an

12706.A  
JWBeach

1 educational standpoint is the kind of technology  
2 currently being employed.

3 As one who deals with living resources  
4 from a science standpoint I was incredibly impressed  
5 with the technology we got to see while we were on  
6 this Commission from our field trips, as you recall,  
7 and I think the public at large has very little  
8 appreciation for that level of technology.

9 So that is the sort of thing that,  
10 regardless of what happens to OCS, that the  
11 technology development and the implications of that  
12 technology for all sorts of things is important to  
13 the education I think of the next generation of  
14 scientists and engineers in this country. It is an  
15 excellent thing to do.

16 COMMISSIONER RUCKELSHAUS: That is a good  
17 point. It is emphasized in the text in the report in  
18 support of these recommendations, the advances that

19     have been made in technology and advances in safety  
20     both human and environment are really quite  
21     impressive. We try to make that very clear in the  
22     report.

12706.A  
JWBeach

1                   COMMISSIONER KELLY:  And I think that  
2                   dialogue in our draft is good background and support  
3                   for this type of a recommendation.

4                   COMMISSIONER MULLER-KARGER:  Thank you.  I  
5                   see that Paul Sandifer read my notes again, so I had  
6                   the same comment, that this is part of a much larger  
7                   education issue.  I would like to see education on  
8                   ocean issues coordinated at a very high level and  
9                   given the same priority as everything--or higher  
10                  priority than everything else we're talking about.  I  
11                  think it is so critical.

12                  From the point of view of each state, I  
13                  think that what we need is a clear assessment of the  
14                  risks of how we bring in energy into each one of the  
15                  states.  I think that we cannot lose perspective over  
16                  the risks associated with pipelines or tankers, for  
17                  example, that may go into a state and that right now

18 don't command the attention of the public as much as  
19 potential drillings.

20                   So I think we need to really be informed,  
21 and I think that the issue of education plays--but  
22 it's not just focused on this issue of drilling. I

12706.A  
JWBeach

1 mean we need to have a clear understanding of the  
2 issues and risks involved with every type of way of  
3 moving energy.

4 So from that point of view, I think it is  
5 an important link between what we're doing in ocean  
6 policy and energy policy as well as transportation  
7 policy. Thanks.

8 MR. EHRMANN: Commissioner Rosenberg?

9 COMMISSIONER ROSENBERG: Thank you. The  
10 notes that Paul Sandifer got from Frank. Frank  
11 actually stole from me.

12 (Laughter.)

13 COMMISSIONER ROSENBERG: I strongly agree  
14 that there needs to be a broader education and  
15 effort, and it needs to be a consolidated one as  
16 opposed to creating a separate program within, or  
17 even expanding a program within an agency.

18 The public outreach education programs

19 need to work together, and that has been said by a

20 number of people.

21 I am entirely supportive of this

22 recommendation in general. I would just note that we

12706.A  
JWBeach

1 ought to be very careful to word it neutrally. We  
2 are not educating people that oil and gas, or any  
3 other method, is great. We are educating people  
4 about oil and gas development and technology.

5 That is going to include all aspects of  
6 that, and whatever the education is, it is. We  
7 should not be suggesting--you know, we're not  
8 suggesting an advertising campaign; we're suggesting  
9 an educational program. And it should be worded as  
10 such.

11 That doesn't mean that I don't think that  
12 these statements are incorrect or anything. I just  
13 want to make sure that when we advocate an education  
14 program that it sounds like that and not an  
15 advertisement.

16 MR. EHRMANN: Dr. Coleman?

17 COMMISSIONER COLEMAN: Thank you.

18 I will make sure that in our Working Group

19 that this becomes a part of our recommendations on  
20 education. However, I will say that most all of the  
21 other agencies have some sort of public outreach  
22 program, education program, and I see those as a

12706.A  
JWBeach

1 short-term effect.

2                   So what I would like to recommend is that  
3 REMO takes this and incorporates it into its  
4 education, but under this specific oil and gas of the  
5 Governance, I would recommend that it stays in. It  
6 might be modified, and so forth, because this is  
7 really short term.

8                   MR. EHRMANN: Admiral Gaffney.

9                   COMMISSIONER GAFFNEY: I agree with Jim.  
10 I like the narrow focus of this. I wouldn't expand  
11 it to other educational issues because these guys  
12 pay. They're willing to pay their own money, and  
13 they generate money for the Federal Government to do  
14 this work.

15                   All the other great ideas are wonderful,  
16 but these guys are willing to pay.

17                   COMMISSIONER BARRONE: This discussion,  
18 though, on education in particular raised a point

19     about the functions of the National Ocean Council. I  
20     think as we write the functional description, we are  
21     going to try to really focus on the education aspect  
22     as well as some of the other things that came up in

12706.A  
JWBeach

1 your earlier comments.

2 MR. EHRMANN: It sounds like there are a  
3 couple aspects of what's been suggested here. One is  
4 that there be consideration given to the  
5 incorporation of potentially other resources,  
6 acknowledging though that was a particular interest  
7 in information related to the oil and gas sector.  
8 But perhaps it would be helpful to frame that in the  
9 context of other energy sources as well. That this  
10 needs to be tied into the overall education effort,  
11 at least as it relates to the recommendations of the  
12 Commission.

13 And Commissioner Coleman indicating that  
14 that could be integrated to some extent from the REMO  
15 perspective but ought to stay here, as well as an oil  
16 and gas related recommendation; and that the tone or  
17 flavor of the information that's presented in this  
18 kind of education program would need to represent the

19 range of issues associated with the practices in this  
20 sector. But again, that this be done in a way that  
21 makes people, as I think was the original intent from  
22 Commissioner Kelly, aware of the benefits and aspects

12706.A  
JWBeach

1 and technological innovation, et cetera, that's  
2 taking place in the industry.

3 So I think there's some crafting to do  
4 here to balance those, but my general sense is that  
5 the Commission is supportive of this idea.

6 Commissioner Rosenberg?

7 COMMISSIONER ROSENBERG: Yes, I am  
8 generally supportive of the idea.

9 I have to say Paul Gaffney's last comment  
10 made me a little uncomfortable, though, that we  
11 should develop educational programs based on  
12 industries that can pay.

13 So I think we ought to be really careful  
14 of that. I mean we want to develop educational  
15 programs because it's an important educational topic,  
16 not based on who puts money on the table.

17 And I understand the realities of creating  
18 these things, but that should not be the basis.

19                   So I do think that whether MMS, or any  
20   other organization, starts off developing this oil  
21   and gas--this outreach in education program, that is  
22   all well and good.  But as Jim said, that's a short-

12706.A  
JWBeach

1 term solution that needs to be incorporated into a  
2 broader educational theme down the road, if I  
3 understood you correctly, Jim.

4 MR. EHRMANN: Any other comments either on  
5 this recommendation or on the oil and gas section  
6 overall? Mr. Ruckelshaus?

7 COMMISSIONER RUCKELSHAUS: As I move into  
8 the next section, let me just comment on the dialogue  
9 that just took place.

10 Not endorsing an idea to educate people  
11 better about the nature of offshore development and  
12 what its benefits are, what technology advances have  
13 been made, and what the environmental risks are, we  
14 ought to be careful about is hard to be against  
15 because people will become more knowledgeable,  
16 assuming the educational effort works.

17 What I think has puzzled me for a long  
18 time is that we're dealing here not just with

19 economic interests, we're dealing with values. And  
20 if we don't recognize that in our educational effort,  
21 then we're missing a big part of why people act the  
22 way they do and why they respond the way they do.

12706.A  
JWBeach

1                   And whether the minerals management  
2           service, or even the list of people that we have  
3           here, are the best ones to educate the public on  
4           issues where values are a heavily laden part of their  
5           decision, I'm not certain.

6                   I'm not an expert at this, so I don't know  
7           what the best way to do it is. I've just seen so  
8           many efforts fail because they make a sort of direct  
9           and rational and reasonable case for a course of  
10          action which completely misses the values that people  
11          possess.

12                   We haven't started a nuclear power plant  
13          in this country since the late 1970s. We have a  
14          problem that people say they're deeply concerned  
15          about involving the burning of fossil fuels and its  
16          impact on climate, and yet there is essentially no  
17          dialogue going on at the national level as to whether

18 or not we should revitalize the nuclear industry and  
19 begin to look at that as an alternative source of  
20 energy.

21 The values associated with people's  
22 reactions to cataclysmic risk, which is the way they

12706.A  
JWBeach

1 see nuclear power no matter how remote you can make  
2 the case that risk is, their reaction to it is: I  
3 don't want that risk. And that has stymied the  
4 development of nuclear, any additional nuclear power  
5 now for over 30 years.

6           So I just think in suggesting that all we  
7 need to do is educate people and they'll do the right  
8 thing, we've got to recognize that what we're dealing  
9 with here are only partly rational reactions but a  
10 good part of it is value and emotion driven. And  
11 educating our way out of that, it's one of the same  
12 reasons why I in my introductory remarks said: What  
13 is it that we can say that would be useful here?

14           There are a lot of things we can say, and  
15 most of them have been said in private meetings, in  
16 the Working Group meetings. The question is: What  
17 can we say that would be useful? And that's what is  
18 puzzling because we're dealing with deeply held

19 values.

20 We can argue about those values and say

21 they're wrong, my values are different, or they

22 shouldn't be the same, but they're there.

12706.A  
JWBeach

1                   And if we ignore that in our  
2                   recommendations, we could spend a lot of money  
3                   educating people along these lines and not change  
4                   people's minds. So I only state that as a caveat.

5                   Having usurped the floor for that speech,  
6                   let me go into Existing And Emerging Uses. These are  
7                   things that have not as yet reached the state of  
8                   emotion that it's impossible to deal with them,  
9                   although there are a couple of them on our list that  
10                  are close.

11                  We believe, I think as a Commission, that  
12                  the offshore waters, three miles and beyond, are held  
13                  by the Nation in trust for the public. We think that  
14                  those areas should be managed for multiple use and  
15                  public benefit, including appropriate environmental  
16                  protection.

17                  Here are some issues which we've heard  
18                  about and identified that need to be addressed by the

19 Congress or the NOC in developing a formal regime,  
20 because there is none right now. There really isn't  
21 any. There are some aspects of a regime for some of  
22 these things, but there is no really formal regime.

12706.A  
JWBeach

1 (Slide.)

2 This is not a complete list by any means,  
3 but it is a list of activities or opportunities that  
4 we've heard about from witnesses for which some kind  
5 of regime is needed.

6 And Jim Coleman, again, we talked  
7 yesterday about aquaculture--or I'm sorry, Paul--we  
8 talked yesterday about aquaculture as to whatever we  
9 say here ought to be harmonized with what you're  
10 saying of the stewardship group.

11 I realize REMO has not made a  
12 pronouncement on this subject, but I'm sure you'd be  
13 happy to. Next slide, please.

14 (Slide.)

15 What we're suggesting is that until the  
16 Congress establishes a formal regime for these uses,  
17 the National Ocean Council should designate an  
18 interim lead agency to do the research, assessment,



12706.A  
JWBeach

1 that Congress should ensure that all these kinds of  
2 uses of the ocean, that there is an adequate  
3 management regime in place or either abuse is likely  
4 to take place or we'll get a public reaction against  
5 some of these activities that are potentially  
6 beneficial to the public because we don't have any  
7 believable regime in place that regulates this  
8 particular use.

9 So we're talking about consideration given  
10 to this siting, leasing, and environmental  
11 considerations associated with these uses.

12 That's a summary of what the text would  
13 suggest our recommendation is.

14 MR. EHRMANN: Commissioner Ballard?

15 COMMISSIONER BALLARD: Yes. On the first  
16 vu-graph, Vu-graph I think 23, I'm concerned that  
17 we've narrowed it too much by saying the "federal  
18 offshore waters of the United States."

19                    Since a tremendous amount of the oceans  
20                    are in international waters, I would hope that we  
21                    could broaden this to encompass those waters as well.  
22                    And I don't know what the wordsmithing would be, but

12706.A  
JWBeach

1 certainly in the areas of research and exploration,  
2 and even in marine minerals, et cetera, there are  
3 activities that our country can be involved in that  
4 are beyond our federal waters.

5 COMMISSIONER RUCKELSHAUS: I think that's  
6 a good suggestion, and we should add that.

7 MR. EHRMANN: Commissioner Rosenberg.

8 COMMISSIONER ROSENBERG: I think it's a  
9 good suggestion, too, but we need to be careful and  
10 check with someone who actually understands Law of  
11 The Sea better than I do about whether we would say  
12 that international waters are held in the public  
13 trust. Because "public trust" does mean something.

14 COMMISSIONER BALLARD: Well that's what I  
15 meant, "in the world trust," or however you want to  
16 say that. I would wordsmith it so that you do not  
17 exclude the Commission from being involved in waters  
18 outside of the EEZ.

19                   COMMISSIONER ROSENBERG: I also think that  
20           state waters are held in the public trust. It's just  
21           they're managed by the states for the public trust.  
22           And so we ought to be careful that we're covering all

12706.A  
JWBeach

1 of the areas, because it's not just the case that  
2 federal waters are held in the public trust and state  
3 waters aren't. And that probably needs a little bit  
4 more work.

5 COMMISSIONER RUCKELSHAUS: I agree.

6 MR. EHRMANN: Marc, on this point.

7 COMMISSIONER HERSHMAN: Thanks, Bob, for  
8 that suggestion. This was written to indicate when  
9 we have the responsibility because it's within our  
10 Exclusive Economic Zone to establish a regime that  
11 some sort of formal legal action should be taken.

12 What would happen outside 200 miles would  
13 be a different kind of an arrangement. It would be  
14 more how we relate with other countries, whether it  
15 fits under an international regime or something like  
16 that. It may be we need to draft a separate kind of  
17 a recommendation for that particular issue, so I will  
18 give it some more thought and maybe we can come up

19 with something.

20 COMMISSIONER BALLARD: Yes. And I didn't

21 know if the EEZs and the Territorial Trusts are

22 really legally different.

12706.A  
JWBeach

1                   COMMISSIONER HERSHMAN: I better not  
2 hazard to say anything on that.

3                   COMMISSIONER BALLARD: I'm assuming they  
4 are. And so it's a question of whether now you're  
5 saying there's three. All I'm concerned about is  
6 that this, as defined, is very narrowly defined.

7                   COMMISSIONER RUCKELSHAUS: That's a good  
8 point.

9                   MR. EHRMANN: Good point. Commissioner  
10 Sandifer.

11                  COMMISSIONER SANDIFER: To this same  
12 slide, the idea of including state waters, or at  
13 least the interaction with state waters as public  
14 trust, these same uses ought to be included, as Andy  
15 has well pointed out, and perhaps something simple  
16 could be done to meet Dr. Ballard's comments.

17                  International leadership, again this is an  
18 appropriate role for the United States to take. I'm

19 concerned that--I believe it's the intent of the  
20 working group that this list here not be considered  
21 to be complete by any means. So we need to ensure  
22 that.

12706.A  
JWBeach

1                   And finally, the first one on that list,  
2                   bioprospecting, is something that can be of concern  
3                   to some people. But we also heard some very  
4                   compelling testimony from the National Cancer  
5                   Institute, if I recall correctly, and one of the  
6                   great concerns was the lack of this regime that would  
7                   provide a mechanism for a bona fide bioprospecting  
8                   for natural products, chemistry, so on and so on.  
9                   And I think there may have been some mistakes in  
10                  those concerns being raised to us about how difficult  
11                  the regime was in the particular instance the  
12                  individual was quoting, but the broader context is  
13                  very real.

14                  I think we should include in our text that  
15                  kind of example where the National Cancer Institute  
16                  is requesting some assistance. It seems to me that  
17                  that helps make the compelling story a little--the  
18                  story a little bit more compelling, let's put it that

19 way. Thank you.

20 MR. EHRMANN: Any other comments or

21 questions related to the Existing and Emerging Uses

22 Section?

12706.A  
JWBeach

1 (No response.)

2 MR. EHRMANN: All right.

3 COMMISSIONER RUCKELSHAUS: Since I'm sure  
4 you're tired of hearing from me by now, I'm happy to  
5 turn this over to the World's leading expert on  
6 Coastal Zone Management. You don't have to hide your  
7 head, Bob.

8 CHAIRMAN WATKINS: Here, here.

9 COMMISSIONER RUCKELSHAUS: We have  
10 Dr. Hershman as part of our Working Group who has  
11 spent a good deal of his professional life studying  
12 the issues of coastal zone management and the current  
13 coastal zone management law. We all felt that he  
14 would be the best one to present this set of  
15 recommendations to the Commission.

16 COMMISSIONER HERSHMAN: I drew the  
17 shortest straw is what happened.

18 (Laughter.)

19

20

21

22

12706.B  
JWBeach

1 COMMISSIONER HERSHMAN: Thank you.

2 The Working Group on Governance struggled  
3 with what recommendations to make with regard to  
4 enhancing the Nation's efforts in coastal management  
5 and we have three vu-graphs. If we could have the  
6 first one?

7 (Slide.)

8 I'll go through and then give a little  
9 explanation. The Commission believes that,  
10 consistent with ecosystem-based management, we should  
11 assure the protection and sustainable use of the  
12 Coastal Zone.

13 And to implement that, or further that,  
14 the Ocean Council should coordinate with federal  
15 agencies, state, territorial, local, and tribal  
16 governments the development of a National Coastal  
17 Management Policy.



12706.B  
JWBeach

1 Coastal Zone Management law in this country. It has  
2 been implemented for 30 years. Its primary aim is to  
3 get state and local governments to develop and  
4 implement coastal policies.

5 And although the statute could be read  
6 that these policies in the national law apply to all  
7 the other federal agencies, the operational aspect of  
8 the law is at the state and local level.

9 This recommendation then is intended to  
10 elevate the discussion of coastal policies to one  
11 that involves the other federal agencies. In fact,  
12 years ago oldtimers like myself remember that there  
13 was active consideration of a Federal Coastal Council  
14 that would be made up of federal agencies, but this  
15 never got past the Congress.

16 So that is recommendation number one.

17 (Slide.)

18 Another part of the implementation of a

19 new National Coastal Policy would be enhancing and  
20 improving the current Coastal Zone Management Act.

21 As one part of this policy, the CZMA  
22 should be amended to include the following--and we

12706.B  
JWBeach

1 have five kinds of topics that should be addressed.

2           The first is to incorporate assessment and  
3 planning functions more effectively within state  
4 coastal programs.

5           That could be translated into making it a  
6 more robust management program in which problem  
7 assessment or effective planning activity and  
8 evaluation and feedback would become more integral  
9 parts of coastal zone management programs.

10           The second is to authorize a coastal and  
11 estuarine land protection program to address the need  
12 for protection of conservation corridors and the  
13 preservation of critical coastal areas that are  
14 threatened.

15           With this we have a reference to a bill  
16 that is now in the Congress that would add that kind  
17 of a function to the Coastal Zone Management Act.

18                   What this does is add acquisition, and  
19                   funding for acquisition, to the group of tools that  
20                   coastal zone management programs that the state and  
21                   local governments have.

22                   This has been done sporadically and on an

12706.B  
JWBeach

1 ad hoc basis by some states, but this would elevate  
2 that and give them an acquisition tool many of us  
3 feel is really important to comprehensive coastal  
4 management.

5 The third builds on an issue that's been  
6 floating around the coastal management community for  
7 awhile, which is performance standards and  
8 performance measures.

9 Here we recommend that performance  
10 measures be incorporated for state coastal management  
11 programs as developed by the National Ocean Council  
12 and regional ocean councils, again providing a  
13 broader review and determination of what standards or  
14 what goals we're trying to achieve within coastal  
15 management.

16 The fourth category is also one that's  
17 been worked at sporadically by some states, which is

18 ocean or marine waters planning and management for  
19 coastal states.

20                   The tendency has been to focus on land use  
21 control issues with less attention to the water area.  
22 But with the emergence of tremendous interest in

12706.B  
JWBeach

1 marine protected areas, essential fish habitat, and a  
2 wide range of ways to identify and protect particular  
3 marine areas, the capability of coastal programs to  
4 build their ability to plan and manage marine zones  
5 would be important.

6                   And then finally, enhance the state's  
7 abilities to do more effective land use and growth  
8 management planning within the coastal zone,  
9 including consideration of cumulative effects.

10                   Most state programs have a land use  
11 control mechanism for the coastal zone. We want to  
12 see this enhanced into a more refined land use policy  
13 with special attention, as we mentioned, to growth  
14 management issues and cumulative effects. And the  
15 final slide, please.

16                   (Slide.)

17                   This deals with other aspects of national

18 coastal management policy. Here we see a special  
19 value that the National Ocean Council and regional  
20 councils can play in building bridges between the  
21 state and local coastal programs that are already  
22 operating and place, and many other programs at the

12706.B  
JWBeach

1 state and national level which also operate in the  
2 coastal zone, but where there might be a need for  
3 some more harmonization of policy.

4 So we mentioned just three or them here,  
5 so this is just a beginning list.

6 The first would be interaction of  
7 watershed management and coastal management. We see  
8 a need for clarity in the way in which a variety of  
9 issues that are caught under the rubric of watershed  
10 management are dealt with in light of the fact that  
11 there are also coastal management activities  
12 partially within these watersheds, or perhaps just on  
13 the shorelines of these watersheds.

14 Secondly, attention should be given to the  
15 specific issues related to shoreline and sediment  
16 management, coastal hazards, and coastal habitat  
17 restoration and conservation.

18                                   And within this, for example, in the  
19                                   shoreline and sediment management the major issue  
20                                   dealing with dredge materials. Dredge material  
21                                   disposal is just one example of that where the role  
22                                   of key federal agencies and state and local

12706.B  
JWBeach

1 governments need sharp, clear coordination  
2 mechanisms, especially in the area of dredge material  
3 disposal.

4                   Initiatives have been undertaken already  
5 in this area, and we would think that our new  
6 structure and framework could build on that to create  
7 a better linkage between the responsibilities of the  
8 Federal Government through the Corps of Engineers and  
9 the responsibility of state and local governments for  
10 site selection and dealing with sediment and  
11 beneficial use of sediments.

12                   The same could be said in the coastal  
13 hazards area. Strong interest at the state and local  
14 government area for hazards management and  
15 protection; major roles by FEMA, Corps of Engineers  
16 and others in which there needs to be some policy  
17 clarity and policy harmonization because at times  
18 they are directly in conflict with one another.

19                   And thirdly in the area of coastal habitat  
20   restoration and conservation, it's no secret that  
21   there is a wide range of initiatives coming from many  
22   resource and environmental agencies for habitat

12706.B  
JWBeach

1 restoration, conservation work. Building this into  
2 the planning for shoreline and coastal areas at the  
3 state and local level so that there's some common  
4 roadmap we think would be very valuable.

5 Finally, impacts of federal infrastructure  
6 investments on coastal areas. One idea that we're  
7 exploring is evaluating more clearly what that  
8 infrastructure investment impact is in coastal areas,  
9 and the effect this has on existing coastal  
10 management programs.

11 There certainly has been a great deal of  
12 concern for this, and again because it is a federal,  
13 state, and local integration challenge we feel that  
14 it is the appropriate thing for our new ocean policy  
15 structure to address.

16 That's the end of our presentation.

17 MR. EHRMANN: Thank you.

18 Commissioner Coleman?

19                   COMMISSIONER COLEMAN: Thank you, Marc,

20       for a job well done.

21                   Since I've run up the white flag on

22       regional councils, I would now like to turn around

12706.B  
JWBeach

1 and ask you to include it somewhere.

2 (Laughter.)

3 COMMISSIONER COLEMAN: That's on your  
4 first recommendation. If the national regional  
5 councils are so important, then there should be  
6 coordination from the NOC with federal agencies,  
7 regional councils, state, territorial, and local.

8 COMMISSIONER HERSHMAN: That's a very good  
9 point, and I think it's--this was also done at the  
10 wee hours last night, so I think that's an oversight  
11 we should have included.

12 COMMISSIONER COLEMAN: Just don't say I  
13 added it.

14 (Laughter.)

15 COMMISSIONER HERSHMAN: I won't. We'll  
16 protect you.

17 MR. EHRMANN: No fingerprints.

18 Commissioner Rasmuson?

19 COMMISSIONER RASMUSON: Thank you.

20 Marc, this is obviously a difficult thing

21 to implement if a number of the states don't

22 necessarily like it.



19 with a lot of lawsuits if this is implemented in a  
20 way that various groups feel that they have an  
21 interest that they want to stop certain development,  
22 or they want to have something on their agenda.

12706.B  
JWBeach

1 I don't know how you're going to craft it  
2 to stop that, or to prevent that, or to understand  
3 that all the groups have an essential interest in  
4 this. I mean here is the problem I've got, very  
5 simply, is that it all sounds nice and pure sitting  
6 here in Washington, D.C. But you get this  
7 implemented, if it does go to implementation, and  
8 some groups don't like certain logging practices 20  
9 miles up the river, they can stop it. You know, they  
10 can have some sort of a real big, you know, a problem  
11 that is going to impact a lot of the areas, whether  
12 good or bad. I'm not saying these groups are bad.  
13 I'm just saying that they are fraught with a lot of  
14 problems.

15 COMMISSIONER HERSHMAN: I understand  
16 completely, Ed. That's a good example. Perhaps when  
17 you have a new requirement that comes out, which I

18 believe started in 1996, for essential fish habitat,

19 there's been a great deal of discussion about, well,

20 what does that mean? How should it be interpreted?

21 Where should we apply it?

22 I know in my own experience I haven't seen

12706.B  
JWBeach

1 much dialogue between the essential fish habitat  
2 evaluation and discussion coming from the councils in  
3 my area with the coastal management activity, or  
4 coastal management--

5 COMMISSIONER RASMUSON: It is in our area.  
6 That is a big, hot topic.

7 COMMISSIONER HERSHMAN: Well it varies  
8 from place to place. But what I am saying is that  
9 this is the kind of an issue which ought to be  
10 addressed up front in a more general way rather than  
11 when a project comes up and all of a sudden someone  
12 says, wait a second, this is essential fish--

13 COMMISSIONER RASMUSON: I agree with you  
14 completely, but I'm concerned about having something  
15 from top down applying to everywhere. I think you  
16 have to look at it region by region, and I understand  
17 where you're coming from, Marc. It sounds good. I  
18 guess what you're suggesting is some sort of a forum

19 here to try to come up with some rules that will

20 apply throughout all 50 states.

21 COMMISSIONER HERSHMAN: A forum that might

22 help generate appropriate rules amongst all the

12706.B  
JWBeach

1 players who are involved. I hope that that might  
2 result in new issues, especially one like essential  
3 fish habitat.

4 MR. EHRMANN: Commissioner Rosenberg on  
5 this point?

6 COMMISSIONER ROSENBERG: Thank you. I  
7 think the recommendation here really relates to  
8 setting some goals and objectives as opposed to the  
9 rules.

10 Again, the specific implementation is  
11 within other statutes. Essential fish habitat is  
12 within the Fisheries Management statute not within  
13 Coastal Zone management.

14 The problem is that you end up having in  
15 many cases conflicting rules. But if you have a set  
16 of national goals and objectives, you might have a  
17 chance of resolving some of those conflicts.

18 So I actually think that, rather than

19       exacerbating the problems that have come up with  
20       things such as EFH, you might have a chance of having  
21       a rather more coherent set of rules for the coastal  
22       zones and watersheds.

12706.B  
JWBeach

1                   Otherwise, I do think we're going to end  
2 up continuing to follow this road of having things in  
3 individuals statutes with no real relation to what is  
4 going on in other statutes. And that is my reason  
5 for feeling strongly there ought to be developed a  
6 sort of broader umbrella that talks about goals and  
7 objectives.

8                   But goals and objectives are different  
9 from national standards. That is a very important  
10 distinction as you try to develop some umbrella  
11 framework. So I don't think this is suggesting that  
12 they would be common rules in all 50 states. It is  
13 saying that we should be trying to at least recognize  
14 that we have some common goals with regional  
15 specificity.

16                   MR. EHRMANN: Commissioner Ballard?

17                   COMMISSIONER BALLARD: Yes. We are

18 clearly making national coastal management policy a  
19 major focus of our Commission's deliberations. In  
20 fact, it has dominated it in many ways.

21                   So I want to make sure I understand what  
22 "coastal means."

12706.B  
JWBeach

1                   As I looked at these vu-graphs, I saw  
2 coastal, watershed, wetlands, estuarine, no mention of  
3 the Great Lakes or the more recent new Great Lakes  
4 like Lake Champlain.

5                   And so I'm curious. As we've heard our  
6 deliberations, we've seen testimony that would tend  
7 to imply that we're narrowly defining the word  
8 "coastal" and that we need to really move it into  
9 other areas--for example, watershed areas, or wetland  
10 areas.

11                   What does "coastal" mean?

12                   COMMISSIONER HERSHMAN: Well in the  
13 current legal perspective "coastal zone" has been  
14 defined variously by the different coastal states  
15 because the focus of attention at this point has been  
16 establishing state level coastal management programs.

17                   Each of them defines their own coastal  
18 zone. In some cases it is very broad. The whole

19 Puget Sound area for example is considered part of  
20 the coastal zone up to the coastal mountain range in  
21 Oregon. In some places it's quite narrow.

22 I think this worked well for the state

12706.B  
JWBeach

1 coastal programs, although there was the issue of how  
2 it links to watersheds.

3 COMMISSIONER BALLARD: What I'm thinking  
4 about is, if you say we're going to make  
5 recommendations to amend a present coastal management  
6 act, is that a narrowly defined act? And should it  
7 be broadened in its definition of what "coastal" is?

8 COMMISSIONER HERSHMAN: That's not in the  
9 recommendation.

10 COMMISSIONER BALLARD: That's why I'm  
11 asking.

12 COMMISSIONER HERSHMAN: We were not  
13 recommending that. What we were recommending was  
14 enhancing the tools that they have for managing  
15 within the area that's already defined as the coastal  
16 zone.

17 COMMISSIONER BALLARD: But you see no  
18 need, based upon all the testimony we've heard, to

19 expand the definition of "coastal"?

20 COMMISSIONER HERSHMAN: I guess I

21 personally don't see that as the way to go. I see a

22 more broad coordinating effort involving the other

12706.B  
JWBeach

1 agencies.

2 COMMISSIONER BALLARD: For example, on the  
3 third one you say we should interact--the interaction  
4 of watershed management and coastal management, is  
5 there good watershed management that we're going to  
6 interact with? Or should we be concerned about  
7 watershed?

8 COMMISSIONER HERSHMAN: Yes, and watershed  
9 management has been identified in stewardship as  
10 something that is needed, as well. Watersheds can be  
11 far greater, far larger, and farther inland than the  
12 coastal zone area.

13 To me what's most important is finding a  
14 way to make a good, hard linkage between what the  
15 goals of a watershed are with those of coastal zone  
16 management, rather than to say we should expand  
17 coastal management to include all watersheds. That  
18 would get at the real trouble.

19                   COMMISSIONER BALLARD:  So when you say

20    "coastal," everyone will understand what you're

21    saying?  That's what I'm concerned about.

22                   (Laughter.)

12706.B  
JWBeach

1                   COMMISSIONER HERSHMAN: Well the coastal  
2 states will because there's a program that they had  
3 to go through the definition of "coastal" in that  
4 regard.

5                   MR. EHRMANN: Commissioner Kelly?

6                   COMMISSIONER KELLY: I would like to  
7 remark on this last slide dealing with Other Aspects.  
8 The last point is the impacts of federal  
9 infrastructure investments on coastal areas.

10                   I think when you explain this, you are  
11 saying that that is in there to be all-inclusive with  
12 respect to coastal interaction issues.

13                   I was wondering. Certainly the Coastal  
14 Zone Management Act already covers well any new  
15 facilities that might be developed and how the state  
16 government interface might occur. I was just  
17 wondering, are you thinking about already existing  
18 facilities here? And have there been issues that

19 have come up on this subject between the states and

20 the Federal Government recently?

21 COMMISSIONER HERSHMAN: Oh, yes. I think

22 there are certain infrastructure investments relating

12706.B  
JWBeach

1 to those that the Corps of Engineers would undertake,  
2 whether it's hurricane protection, whether it's  
3 dredging and that sort of stuff are major  
4 infrastructure investments.

5 What I think this is getting at is to try  
6 to deal with the issue of harmonizing those  
7 infrastructure needs with coastal management long  
8 before we get to the federal consistency review  
9 process. Because right now I think that that advance  
10 planning that's done to try to look at harmonization  
11 of policy is missing.

12 What we tend to have is the hammer at the  
13 end of the road, and it becomes a states' rights  
14 versus Federal Government kind of a battle. If we  
15 could somehow create a mechanism that would try to  
16 bring some of these issues together earlier on, I  
17 think it would be better.

18 One of the things that Lilly and I had

19 spent some time talking with Stewardship about  
20 related to this whole area of port development,  
21 dredging, dredging material management, and sediment  
22 management, including its environmental dimensions

12706.B  
JWBeach

1 within a harbor area.

2                   It seems to me that there is an issue  
3 which is local, state, federal, and involves all  
4 sorts of construction money that is used to move  
5 things around.

6                   Here is an area where we could benefit a  
7 lot from some more coordinated process and some  
8 harmonization of policies, and to try to do that at  
9 the front end instead of the middle of the project.

10                   COMMISSIONER KELLY: That is very helpful.

11 Thank you.

12                   MR. EHRMANN: Commissioner Muller-Karger?

13                   COMMISSIONER MULLER-KARGER: Thank you.

14                   Marc, I'm a little confused because these  
15 recommendations you have here are maybe a little bit  
16 too high-level and a little bit vague.

17                   I wonder if there's a way to clearly

18 identify what the problem is with present CZMA issues  
19 and highlight where you have to beef them up or amend  
20 the present legislation.

21                   The other question I have is: How much of  
22 what you identify here is an issue of the CZMA really

12706.B  
JWBeach

1 having a microscopic funding levels. Is that the  
2 issue? CZMA, I'm sorry.

3 COMMISSIONER HERSHMAN: On your first  
4 point, there's a lot of text that we have on each of  
5 these points, and I think the literature and the text  
6 and what we have heard in testimony lays the  
7 foundations for the recommendations in graph number  
8 two, which are for the specific amendments to the  
9 CZMA. So that material is available, and it  
10 certainly would be fleshed out in the report.

11 Now on your second point, you're  
12 absolutely right. Coastal Management Program has  
13 been woefully under-funded for the scope of its  
14 responsibility. I give a lot of credit to people at  
15 the state and local level who have brought funds from  
16 other sources, both local sources and matching with  
17 other federal and state entities, in order to get

18 more bang for the buck.

19                   We are asking new responsibilities. There  
20 have to be new resources to go along with. But we  
21 are still in the category of a relatively minor  
22 amount of new resources. We're not talking about

12706.B  
JWBeach

1 observation systems or something like that which  
2 would be a major infrastructure investment.

3 So it definitely does need to be beefed  
4 up. But I guess having said that, I would like to  
5 come back to a point I made earlier. To me, we're  
6 never going to be able to put into coastal zone  
7 management the way it's structured now in the CZMA  
8 the kind of resources for it to do the total job  
9 comprehensively.

10 It necessarily has to integrate with and  
11 coordinate closely with a variety of other players.  
12 It needs to be beefed up to the extent we've listed  
13 here, which are not major new expenditures. The key  
14 thing is to create a new way in which business is  
15 done through better integration with the other  
16 agencies and players at the federal and state  
17 government levels.

18 MR. EHRMANN: Commissioner Sandifer?

19 COMMISSIONER SANDIFER: Great job, Marc.

20 Going back to the first slide for just a

21 moment, I think your statement of the necessity to

22 develop a national coastal ocean management policy is

12706.B  
JWBeach

1       excellent.

2                   I would concur with the Jim Coleman  
3       assertion of regional council participation here, and  
4       with Ed Rasmuson's suggestion on bottom-up.

5                   I think perhaps the second sentence where  
6       you talk about the national coastal goals and  
7       objectives be modified to explicitly say "developed  
8       in concert with the local participation that ensures  
9       that it is not something that is forced on people,  
10      that they are part of the process.

11                  On your second slide where you list the  
12      several things you would modify within the Coastal  
13      Zone Management Act, or amend, I have one serious  
14      concern here.

15                  If you go down to the next-to-the-last  
16      bullet, the wording is "Strength ocean planning and  
17      management responsibility for coastal states."

18 I am concerned that that by its nature  
19 then extends the jurisdiction of the coastal zone  
20 management program perhaps further than you intend  
21 to. And I would feel much more comfortable with  
22 building capacity for the state programs to be able

12706.B  
JWBeach

1 to do ocean planning and management than I do  
2 extending the responsibility.

3 I suspect without both a good deal of  
4 capacity building and sustained support, that  
5 responsibility would rapidly fall through the cracks.  
6 So it is something that may be wordsmithing, but I  
7 really think what you're talking about is capacity  
8 here, not extending state jurisdictions beyond  
9 current boundaries.

10 COMMISSIONER HERSHMAN: A very good point.

11 COMMISSIONER SANDIFER: I'm not changing  
12 consistency or anything like that--

13 COMMISSIONER HERSHMAN: I understand.

14 COMMISSIONER SANDIFER: --but that word  
15 "responsibility" just hit me the wrong way.

16 COMMISSIONER HERSHMAN: That's a very good  
17 point.

18 COMMISSIONER SANDIFER: It implies

19 authority.

20 COMMISSIONER HERSHMAN: It's too cryptic a

21 statement. What's intended here is a state law and

22 state jurisdiction goes to three miles. Within that

12706.B  
JWBeach

1 area, states do have a responsibility for management.  
2 Beyond that, states have a strong interest, and they  
3 exercise that through consistency review of federal  
4 activities.

5 In about a half a dozen states there has  
6 been an attempt to develop some plans or policies  
7 that try to lay out how that consistency  
8 determination might be exercised and what are state  
9 goals for that area.

10 It is not an attempt to assert  
11 jurisdiction or to claim some sort of legal right  
12 over the decisions of the Federal Government except  
13 to the extent that consistency review does apply.

14 COMMISSIONER SANDIFER: I just feel it  
15 would be better if we substitute the word "capacity"  
16 there.

17 COMMISSIONER HERSHMAN: Yes.

18 COMMISSIONER SANDIFER: And the final

19 slide on this where you talked about "other aspects  
20 of national coastal management policy," this you've  
21 heard from me several times before.

22 I think within the national policy there

12706.B  
JWBeach

1 should be a statement of the need to develop a formal  
2 science information mechanism for coastal zone  
3 management that really doesn't exist. We have talked  
4 about this a number of times that, perhaps as  
5 difficult as the Fisheries management process is, or  
6 the minerals' management process is and so on, there  
7 do exist formal structures, scientific structures to  
8 provide applied research information on which  
9 management decisions can be made.

10                   There is no formal structure within the  
11 coastal zone management system that I'm aware of for  
12 getting scientific underpinning for the decisions. I  
13 think it is worth at least remind the Congress and  
14 reminding the Nation that something needs to be  
15 addressed.

16                   COMMISSIONER HERSHMAN: That's a very good  
17 point. Thank you.

18 MR. EHRMANN: Commissioner Ballard, is

19 that another point?

20 COMMISSIONER BALLARD: No.

21 MR. EHRMANN: Any other comments on the

22 Coastal Management recommendations, then?

12706.B  
JWBeach

1 (No response.)

2 MR. EHRMANN: Let me ask Mr. Ruckelshaus  
3 if he wants to make any closing comments for the  
4 Governance Working Group, and then I will turn to the  
5 Chair.

6 COMMISSIONER RUCKELSHAUS: Well I won't  
7 make many, but I do think that what we've heard is a  
8 consensus emerging on the use of this National Ocean  
9 Council as a mechanism for achieving a lot of change.

10 Frank Muller-Karger mentioned that's  
11 really what we're about here. And I don't think we  
12 should underestimate the impact of this  
13 recommendation should it be accepted.

14 The establishment of a council in the  
15 Executive Office of the President made up of most of  
16 the Cabinet agency members in the government  
17 directing their attention in a much more coordinated  
18 and supported way toward improving our ocean policy

19 would be a huge contribution to the assignment that

20 we have been given.

21 We have invited the Congress as well to

22 participate in this creation.

12706.B  
JWBeach

1                   Now the proof of course will be ultimately  
2                   in the way in which the powers are exercised by the  
3                   members of the Council as well as by its chairman and  
4                   the President.

5                   But I think that, while it may not have  
6                   the same effect on many of us that some major Cabinet  
7                   recommendation might have, for instance, it is a lot  
8                   more likely to take place. Nobody can guarantee this  
9                   would take place, but it is a lot more likely to take  
10                  place than is some major Cabinet reorganization.

11                  So I don't think we should underestimate  
12                  what we are recommending here, or underestimate the  
13                  potential impact of it.

14                  I thank all of you for your patients while  
15                  we have sort of wrestled through this. A number of  
16                  you have participated in the Working Group meetings  
17                  as we have done it, and I think that as it moves

18 forward and begins to take more shape, it will be  
19 more apparent what the effect of this will be on our  
20 Nation's address to our ocean policy questions.

21 CHAIRMAN WATKINS: Thank you very much,  
22 Bill. That completes the Governance Working Group,

12706.B  
JWBeach

1 as I understand it. We have now completed the  
2 Research Education and Marine Operations, as I  
3 mentioned earlier, and we will now have a recess for  
4 lunch until 1:30 at which time we will take up the  
5 remainder of the seven issues by the Stewardship  
6 Working Group.

7 We are also advising public commenters--  
8 and there are two signed up so far, three now, three  
9 signed up--advised that we may start the public  
10 comment period earlier and to please be available for  
11 that.

12 So with that, we will recess until 1:30.

13 (Whereupon, at 12:30 p.m., the meeting was  
14 recessed to lunch, to reconvene at 1:30 p.m., this  
15 same day.)

16

17