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Public Meeting

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Stellwagen Bank National Marine Sanctuary

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June 12, 2008

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Cape Codder Hotel

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Hyannis, Massachusetts

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P R O C E E D I N G S

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DENNIS DONAHUE: I am against to stop
commercial fishing on Stellwagen bank.

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MR. MACDONALD: As I call your name,
would you please come to the microphone and offer
your comments, and the court reporter will record
them. The first speaker is Regina Asmutis-Silvia.
Before you begin, this is a one-minute heads-up and
then this is a thirty-seconds heads-up.

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MS. ASMUTIS-SILVIA: Hi, my name is
Regina Asmutis-Silvia. I am the senior biologist for
the Whale and Dolphin Conservation Society. It is on
behalf of the more than 70,000 supporters of WDCA
that I offer these comments.

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In spite of being kind to me today and
explaining some of the questions I have, I would
still like to offer these comments because I am not
really convinced that the draft management plan
really addresses in writing what this plan actually
does.

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The conclusion of the draft
environmental assessment in the plan says that there
is not an EIS or EA required because the preferred

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alternative is to qualify for a categorical
exemption. We don't feel that the conclusions in the
draft environmental assessment in the plan qualify
for a categorical exemption as it states. We don't
feel that the preferred alternative is an alternative
at all as there are no other alternatives discussed.

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Furthermore, the preferred alternative
only lists the action plans, with the summaries,
indicating that a NEPA analyses will be required to
determine potential impacts which to us seems
contradictory that it qualifies for a categorical
exemption because it does not result in positive or
negative impacts when each action plan summary states
that, quote, NOAA has yet to develop the proposal

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15 enough to evaluate the potential impacts in a
16 meaningful way.
17 Some of those plans Craig mentioned in
18 his presentation here do require or propose
19 regulations that will go into effect some as early as
20 next year, 2009. It is inconceivable to us that
21 there will not be any impact resulting from these
22 proposed regulations. Yet we still feel the document
23 is unclear to say that these proposals will be

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1 available for public comment and an EIS will be
2 required.

3 As the chair of the Marine Mammal
4 Entanglement Working Group I am a bit disappointed
5 that there has been no sanctuary representation at
6 the most recent federal large whale or harbor
7 porpoise meetings, particularly when the group worked
8 very hard to make sure that the draft management plan
9 and action plan that we developed relied on many of
10 those same measures.

11 We are disappointed that after more
12 than ten years and countless hours of working group
13 meetings the input from the constituency does not
14 appear to have been considered adequately to develop
15 an actual draft management plan with alternatives for
16 public consideration. We will be submitting more
17 formal written comments. We thank you for your
18 time.

19 MR. MACDONALD: Thank you. Our next
20 speaker is Brenda Boleyn.

21 MS. BOLEYN: Thank you for coming to
22 Hyannis. My name is Brenda Boleyn. I live in Truro.
23 I have a background in oceanography. I well remember

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1 the excitement when the sanctuary was first
2 established. My comments are based only on these
3 bank notes, and I thank you for sending those out to
4 us.

5 I understand the need for process, the
6 need for good information and that the interactions
7 are complicated. As Doctor MacDonald said a little
8 earlier, the document is a blueprint for the next
9 steps. Nonetheless, I must express my frustration
10 with the absence of substantive proposed action to
11 address damaging impacts in the sanctuary.

12 My heart sank when I read the last
13 paragraph of the introduction. It says that no
14 changes are proposed to the sanctuary designation
15 document but that several regulatory initiatives
16 could be considered prior to 2013. I find that
17 disheartening, that that much time might be taken
18 before something can absolutely happen.

19 A compatibility determination must be
20 one of the most important tasks you have before you.
21 Your action plan says on Page 13 the compatibility
22 determination action plan recommends a process but
23 does not determine the appropriateness of any

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1 specific sanctuary use current or potential. The
2 marine sanctuary will evaluate the application of a
3 sanctuary compatibility analysis process and
4 determine its usefulness as a decision-making tool.

5 I find that frustrating language which
Page 2

6 simply to me says that there is not much action
7 proposed. It is clear that the sanctuary, the staff
8 have acquired a great deal of information about the
9 sanctuary, much of which is described even in this
10 brief document. It is my hope that the definitive
11 steps to mitigate degradation in the sanctuary can be
12 implemented before five more years have gone by.

13 Going back to Page 9, I quote, "The
14 primary objective of sanctuary management is resource
15 protection." I thank you for all your good work and
16 wish you well. Thank you.

17 MR. MACDONALD: Thank you very much.
18 Our next speaker is Karolina Jasinska.

19 MS. JASINSKA: Good evening. My name is
20 Karolina Jasinska. As I read the bank notes, it was
21 just saying that the purpose of the management review
22 was to evaluate progress, evaluate effectiveness,
23 determine necessary revision; and I got excited about

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1 this report that might be such a dynamic piece of
2 work. Then I read the report, and I saw it was just
3 a snapshot of a much larger piece of work that has
4 been done and was a bit disappointed that the report
5 did not reflect all the comments of all these
6 constituencies.

7 It seems very linear, seemed to be a
8 very linear document in the sense that the state of
9 the resources and the pressures and the action plans
10 were all lined up. I wanted to see more diversity in
11 the approaches that were expressed by various
12 constituencies before the action plans were created,
13 and I have not seen those in the management plan.

14 So the action plans are good, but I
15 just don't know if they are diverse. I don't know
16 what other opinions are expressed and why different
17 conclusions were made that were made, why some
18 suggestions were not seen as priority.

19 So it just leaves me with many
20 questions, and I found that I would like the report
21 to be a lot larger and more broad in scope. Thank
22 you.

23 MR. MACDONALD: Thank you. Our next
0008 speaker is Jodi Burnham.

1 MS. BURNHAM: My name is Jody Burnham.
2 I am president of the The Cape Dive Club. We are a
3 fairly new non-profit scuba diving club with about 80
4 members. The Cape Dive Club is a group of diverse
5 divers of all levels. Our club is devoted to
6 promoting safe diving and good diving protocol along
7 with the goal of good relations with those among our
8 coastal community.

9 Our club supports the creation of a
10 reasonable maritime heritage program for shipwrecks
11 in the sanctuary. We feel this program should
12 include all groups that have access to Stellwagen
13 Bank. The draft plan indicates that divers are in
14 need of management and possible restrictions to the
15 sanctuary. Divers should not be thought of as
16 needing these restrictions or regulations since there
17 is no data that supports divers harm or damage the
18 sanctuary, and we are the smallest group that
19 accesses the sanctuary. Scuba divers have a love and

21 obsession with the water, and they are a responsible
22 group of people.

23 An example of diver responsibility and
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1 contributions that have been made are the wrecks of
2 the Great Lakes and the St. Lawrence Seaway. For
3 decades divers have been exploring and establishing
4 mooring systems on these wrecks in a responsible
5 manner, which includes not removing artifacts. In
6 fact, they have videotaped and photographed all of
7 them with thousands of pictures and miles of film.
8 Most of this has been done at no cost to the
9 Government and for the benefit of all.

10 We are all aware that these wrecks will
11 eventually be gone. The shipwrecks in the sanctuary
12 are not renewable and are impacted by natural factors
13 such as storms, currents and corrosion. The ocean is
14 devouring them every day. So why not take advantage
15 of what the diving community can do to help and be a
16 benefit to the program by documenting, photographing
17 and videoing the shipwrecks and share this with the
18 maritime heritage program and the public.

19 The club feels to make this program work
20 all shipwrecks should be in the same classification
21 and open to public access without permitting. We
22 also feel that artifact collecting should be off
23 limits to both the public and government. As the

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1 famous dive saying states, "Take only pictures and
2 leave only bubbles." Divers are accountable people.

3 The sanctuary can truly benefit and
4 make a better program by taking advantage of the
5 resources and information the dive community can
6 offer and is willing to provide.

7 I am also a supporter of the fishing
8 industries. I have family members and friends who
9 have been or are commercial fishermen and seafood is
10 my favorite food of all time, but reports and annual
11 fish hauls over the years have shown a decline in our
12 ocean resources. Fishermen have suffered, too,
13 because of this. There should be a focus on how to
14 renew and replenish our fishing grounds and change it
15 for the better so we and future generations can all
16 still enjoy fresh seafood for dinner and commercial
17 fishermen will still have a job.

18 Establishing moorings and getting the
19 shipwreck locations out to all groups, especially
20 fishermen, will do more to protect the wrecks than
21 anything. Bottom draggers have done more to destroy
22 these sensitive time capsules than all the divers in
23 the world.

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1 For the program to work it needs to not
2 focus so much on enforcement but instead focus on
3 education and outreach with the groups who access the
4 sanctuary. The maritime heritage program should take
5 advantage of all groups to make this happen. Thank
6 you for your time.

7 MR. MACDONALD: Thank you very much.
8 Our next speaker is Barbara Durkin.

9 MS. DURKIN: My name is Barbara Durkin.
10 I am from Northborough, Massachusetts. Gerry Studds'
11 Stellwagen Bank National Marine Sanctuary is

12 designated by Congress in honor of Representative
13 Studds' contributions and efforts focused on the
14 preservation of the fishing industry. Studds also
15 sponsored the original Magnuson Act of 1973, the law
16 that helped preserve the U.S. fishing industry by
17 extending the U.S. fishing jurisdiction to 200 miles.
18 Mr. Studds helped to pass the Marine Mammal
19 Protection Act that provides federal protection to
20 whales, dolphins and porpoises. He led the fight to
21 limit oil drilling off George's Bank.

22 His work on behalf of our fishing
23 industry and the protection of our waters has guided

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1 the fishing industry into the future and ensured that
2 generations to come will have the opportunity to love
3 and to learn from the sea. Senator Edward Kennedy
4 said in his statement that he was a steward of the
5 oceans.

6 Mining, graveling, drilling for oil and
7 floating casinos were identified as activities
8 incompatible with the ecological integrity of the
9 Southern Gulf of Maine. The threat posed by these
10 activities led to the prohibition of them and the
11 guarantee of rights to the public and fishermen by
12 the Stellwagen Bank National Marine Sanctuary
13 designation document.

14 Now the original stakeholders including
15 fishermen, recreational boaters, and whale watchers
16 are deemed as threats by the draft management plan.
17 As an industry outsider, I am able to identify
18 exclusionary language and the bad guy. The
19 designation document of Stellwagen Bank National
20 Marine Sanctuary is clear in its intent to protect
21 and preserve the fishing industry. To sustain the
22 habitat on which stakeholders depend requires true
23 spirit of cooperation between NOAA, the National

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1 Marine Fisheries Service, and stakeholders.

2 The development of a Stellwagen Bank
3 management plan consistent with the SBNMS designation
4 document will include protection of inalienable
5 rights to fisherman. The blame game does not solve
6 issues such as regulatory discards that have --
7 excuse me. The blame game does not solve issues such
8 as regulatory discards that have risen to 50 percent.
9 The level of integrity of the process will influence
10 the level of integrity of the resource.

11 Rights granted in perpetuity to
12 fishermen by the SBNMS designation document are under
13 attack. My support is offered to fishermen and their
14 families who rely on sustainable fishing practices.
15 The tone of this draft management plan that I have
16 reviewed in part indicates the intention of its
17 authors and advisors to attack and to diminish their
18 guaranteed rights to fish in Stellwagen Bank. They
19 need your cooperative efforts to help guide their
20 heritage, industry and trade into the future. Thank
21 you.

22 MR. MACDONALD: Thank you very much.
23 Our next speaker is Richard Miller.

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1 MR. MILLER: Thank you. I am Richard
2 Miller from Orleans. I am a director of the public

3 center for coastal studies. So you may think I am
4 going to talk about whales, but I am not. More
5 important to me is another hat that I had for ten
6 years as the co-owner of a retail fishing company.

7 The last speaker actually addressed
8 what I would like to take a minute to address but
9 from a different point of view. She mentioned
10 sustainable fishing. The only way that you're going
11 to sustain fishing is by protecting the spawning
12 grounds of the fish, whether it's fish or mollusks or
13 whatnot.

14 When I was in the retail fishing
15 business, we knew where our fish came from like we
16 knew where babies come from. They come from
17 uploading, and the sanctuary is one of the most
18 magnificent examples of natural uploading and
19 spawning of fish species in the world. I do not
20 think that the plan looks like it is taking a serious
21 enough approach to the problem of the destruction of
22 the habitat. I mean, yes, it is definitely
23 addressed; but when I read the language, I am

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1 concerned that it is not strong enough.

2 I think the fishermen need to
3 understand that the future for their next generation
4 for fishing comes from the protection of that
5 habitat, not the destruction of it with the kind of
6 mobile gear that we have today. I know this may
7 sound reactionary and quite strong, but I think you
8 should give serious consideration to an injunction, a
9 moratorium or whatever you have on the destructive
10 gear that has been used in the habitat.

11 I also had the privilege of chairing
12 the initiative to develop a management plan for
13 Pleasant Bay on Cape Cod. We did it in five years
14 including the establishment of the regulations. I
15 agree with Brenda. I am looking forward to 2013.
16 It's too long a line to enforce the kind of
17 regulations necessary to protect this habitat.

18 So my point is I am pleading with you
19 to beef up the approach you have in the plan, do the
20 habitat protection through more immediate regulations
21 of the kind of gear that is being used there now.
22 Thank you very much.

23 MR. MACDONALD: Thank you very much.

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1 Our next speaker is Bob Avila.

2 MR. AVILA: Good evening. My name is
3 Bob Avila. I am with the Captain John Whale Watch
4 out of Plymouth. I think the sanctuary with the
5 guidelines involved -- I think the sanctuary is using
6 a lot of misleading information without the proper
7 public input and the proper methods of evaluation.

8 FROM THE FLOOR: Could you speak up a
9 little bit for us back here? Thank you.

10 MR. AVILA: I think the sanctuary is
11 using a lot of misleading information without the
12 proper input and proper method of evaluation. I
13 think the guidelines should be revised.

14 I think the guidelines should be
15 revised. Speed is a big concern around the whales.
16 I know we all are aware of what is going on with the
17 whales out there. I can tell you that when I leave

18 the dock in the morning I know what is going on in
19 the northwest corner of the bank, the southwest
20 corner of the bank.

21 We all have a very intricate web of
22 communication between the whale watch companies. We
23 all work together. We all live and breathe together.

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1 We just -- we are concerned about the regulations.

2 As far as speed, I think right now in
3 this day and age we are paying \$4.25 a gallon for
4 diesel fuel, and that controls our speed. I was just
5 talking to one of the other whale watch captains
6 here. Before if we saw a whale breaching 5 miles
7 away, we would kind of scoot over and watch it. Now
8 if we see a whale breaching 5 miles away, we say stay
9 over there, we'll look at what we have.

10 I wish the regulations would be
11 revised. Thank you.

12 MR. MACDONALD: Thank you, sir. Mike
13 Ferro is our next speaker.

14 MR. FERRO: My name is Mike Ferro from
15 Dennis, Massachusetts. Thank for hearing my comments
16 tonight. I have a couple of action corrections that
17 I would like to see made on the report.

18 Sanctuary expansion where you talk
19 about Jeffery's Ledge expansion to the north seems
20 kind of shortsighted. I think that you talked
21 earlier about the west gulf of Maine closure. I
22 think you should expand right up there. It's already
23 designated, lined out. You should expand up there.

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1 The reason why you should expand as
2 much as you can at this moment is because considering
3 the fishing and the volume of traffic through the
4 sanctuary now, if you ever get to the point where you
5 are going to say an MPA is going to be here, you will
6 need some area to play with for compromise. I would
7 like you to say no fishing in any no-take zone inside
8 the sanctuary as a whole, but it's not going to
9 happen. Okay.

10 Then that leads me to MPAs. I would
11 like you to change the terminology from MPA to
12 no-take marine zone. From the couple of books I have
13 read recently regarding the definition of MPAs, they
14 are pretty vague. They range from, you know, managed
15 gear and this and that; but saying no-take marine
16 zones, you're not hiding anything. You are holding
17 your cards right out there. Your full intention is
18 to protect the biodiversity of the sanctuary.

19 In that vein of no-take marine zones, I
20 would like you to have the whole sanctuary as a
21 no-take marine zone, that put into the plan. I don't
22 think it would happen, but your best option is have a
23 sanctuary a quarter off the northern area and a

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1 quarter off the southern area.

2 The reason why I picked this myself is
3 travel time from all the coastal communities is going
4 to be minimized or equalled shared with all of them,
5 especially people from Boston. If you take the
6 midsection of the sanctuary, people in Boston will
7 have to travel farther southerly and northerly to get
8 someplace. From what your maps are saying, you're

9 covering a lot of substrata differences that you
10 want.

11 My other thing -- one thing about
12 fishing gear -- one thing about fishing gear that
13 could change, if you can't get no-take marine zones
14 ever to add, it's to have a buy-back plan to buy back
15 technology from the fishermen. Bring it back to old-
16 school status where fish can have a competitive
17 chance to get away, and then you would have everybody
18 on the same level playing field. I think that covers
19 everything I wanted to say. Thank you.

20 MR. MACDONALD: Thank you very much,
21 sir. The next speaker is Ed Barrett.

22 MR. BARRETT: Good evening. My name is
23 Ed Barrett, and I have made previous comments at

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1 Portland and Plymouth. As a commercial fisherman and
2 as person who was a commercial fisherman in 1992, I
3 remember that the formation of the sanctuary was part
4 of a collaboration. That collaboration included
5 people such as Angela Sanfilippo from the Gloucester
6 Fishermen's Wives Association, Ray Ross who is here
7 tonight from at that time the Massachusetts Inshore
8 Draggermen's Association and people such as Peter
9 Shelly from Conservation Law Foundation.

10 In order to have this thing go forward,
11 promises had to be made. Those promises became part
12 of the federal register and became part of the
13 designation document and which those promises were
14 that the sanctuary would not interfere in fishing
15 regulations. From the meetings that I have seen, I
16 feel that the trust that came from those promises has
17 been violated.

18 Let me clarify. I feel that the public
19 feels that that trust, the fishing community, the
20 commercial fishing community feels that that trust is
21 no longer there. If I could comment on a few things.
22 The health of the sanctuary right now is probably --
23 in the 30 years I have spent a lot of time in the

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1 sanctuary waters fishing. I have spent as many as
2 200 days a year fishing the sanctuary waters. Right
3 now if you go there today or tomorrow or had you been
4 there two days ago, you will see probably the most
5 healthy sanctuary that has existed in 40 or 50 years.
6 There are sand eels, whales, ground fish. The
7 biomass of ground fish has increased two to three
8 times in the last 20 years.

9 The commercial fisheries right now from
10 this designation document feels betrayed. I think
11 that the sanctuary needs to look at this and
12 decide -- they are at a fork in the road. The fork
13 is this. We can go forward with the people that have
14 contributed and have resulted in the formation of
15 this sanctuary in a cooperative and collaborative way
16 or we can go forward with it in a very disruptive and
17 contentious way.

18 I can tell you right now that any
19 changes in a designation document, I hear it and the
20 people I talk to say that if a change in the
21 designation document is going to go forward they are
22 favoring eliminating the sanctuary altogether. It is
23 a real and palpable emotion that is existing right

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1 now in the communities that use the sanctuary.

2 So I would urge the sanctuary in the
3 final draft management plan to come forward with a
4 plan that embraces the original collaborativeness,
5 cooperation that the designation, original
6 designation document did. Thank you.

7 MR. MACDONALD: Thank you very much.
8 Our next speaker is Cliff Carroll.

9 MR. CARROLL: Thank you, superintendent
10 MacDonald, for the opportunity to comment on the
11 Stellwagen Bank National Marine Draft Management Plan
12 and Environmental Assessment. For me the waters of
13 the Stellwagen represent fond memories of my
14 childhood on a commercial lobster boat and later
15 harpooning giant bluefin tuna on the Stellwagen bank.

16 My name is Cliff Carroll, and I am a
17 native Cape Codder who grew up in Barnstable Harbor.
18 I remember when the sanctuary was being formed in
19 1992. I specifically remember the promises being
20 made by Congressman Studts to guarantee our access
21 inside the sanctuary. After reading the draft
22 report, I now feel that even today as a recreational
23 boater and fisherman my future access to the

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1 Stellwagen bank would be threatened by this proposal.

2 I feel my ability to continue to take
3 my family and friends to whale watch or tuna fish
4 with my brothers could now be secretly stolen away.
5 I am very disturbed by the document's tone, placement
6 and seemingly deliberate emphasis on the facts which
7 tend to support a driven story line while at the same
8 time minimizing the facts which do not support the
9 predetermined story line.

10 For instance, nowhere in your executive
11 summary does the report mention the reality that all
12 of the fishing inside the U S exclusion zone
13 including the Stellwagen bank is already currently
14 regulated by the NOAA agency and the National Marine
15 Fisheries Service. In my opinion the lack of
16 detailed examination of the current fishery's
17 policies and their effect on the sanctuary seriously
18 compromise the completeness and accuracy of the
19 document.

20 Another key element which is blatantly
21 missing from the document is the study and the
22 investigation of the severe economic impact any
23 future closings on the fishing industry could have on

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1 our local economy. Any future closings will affect
2 communities from Gloucester to P Town. People say
3 that the devil is in the details. It is not the
4 draft itself that I take issue with. It is the
5 maybes, ifs, and the confusing rhetoric throughout
6 the document that threatens the promise of access
7 which was made to all us back in 1992.

8 They also say that all politics is
9 local, but it is very clear that the input of the
10 local stakeholders that use these waters was not
11 applied to the drafting of this incomplete and
12 sometimes misleading document.

13 I implore you to listen to and work
14 with the stakeholders before completing your final

15 report. Thank you very much.
16 MR. MACDONALD: Thank you, sir. Our
17 next speaker is Patrick Paquette.
18 MR. PAQUETTE: Thank you. My name is
19 Patrick Paquette. I am the government affairs
20 officer for the Massachusetts Striped Bass
21 Association which is the largest recreational fishing
22 club in The Commonwealth. I also serve on the
23 national advisory board of the Recreational Fishing

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1 Alliance and National Recreational Fishing
2 Organization with over 300,000 paid active members.
3 My first involvement with what would
4 later become the Stellwagen Bank National Marine
5 Sanctuary was as a young boy in high school when I
6 got the extremely exciting job of working on a head
7 boat out of Gloucester. I got to learn about
8 Stellwagen Bank the old-fashioned way, go out on the
9 water and actually be there.
10 I followed this management plan for the
11 better part of the last ten years. I happen to have
12 been honored enough to serve as the party charter
13 alternate of the zoning working group, and the things
14 I read in the management plan don't reflect what I
15 witnessed in that working group. I want it on the
16 record that there are conclusions made that I heard
17 dismissed while I was inside the working group, and I
18 disagree with some of the statements underneath that
19 section.

20 I also would claim or like to inform
21 you that the \$2 million value of the party charter
22 boat charter fleet working inside Stellwagen Bank
23 National Marine Sanctuary is grossly inadequate and

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1 would not make up the commercial value of the
2 one-party charter fleet out of Marshfield, never mind
3 the largest fleet in the state out of Boston.
4 I believe that the avoidance or the
5 hiding from the National Environmental Policy Act
6 which is my view of what is being done with this
7 document is allowing poor science and bad data to be
8 used, and that is affecting this document and making
9 it extremely inaccurate in some places.
10 I think we all want what Gerry Studds
11 promised us many, many years which ago which was a
12 healthy place that was not going to be ruined by
13 industry. What we are getting now is the
14 foreshadowing of a no-fishing, no-recreational use
15 zone; and the recreational community is starting to
16 kick itself in the tail for buying into what was sold
17 to us by the Government some years ago.

18 We are beginning to believe that it may
19 be time to seriously consider delisting this
20 sanctuary. With so much marine shipping, with so
21 much fishing and commerce going on, if we are going
22 to have to start kicking it out, why don't we look
23 for a better place to put a sanctuary because what is

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1 being used to sell us and ending our cultural and
2 historical use of this water is disgusting and a
3 theft of public resources. Thank you.
4 MR. MACDONALD: Thank you. Our next
5 speaker is George Blanchard.

6 MR. BLANCHARD: I'm George Blanchard.
7 I'm from the Hyannis Whale Watching Cruises in
8 Barnstable, Massachusetts. The commercial whale
9 watching industry was also involved in the formation
10 of Stellwagen Bank Marine Sanctuary. I am extremely
11 concerned with how the plan implicates the commercial
12 whale watching industry.

13 According to the document strategy, 1.1
14 of the marine mammal behavioral disturbance plan is
15 to implement management measures that mitigate
16 behavioral disturbance and risk to whales due to
17 vessel speed and close approach at a cost of \$235
18 million over the next five years. It also states
19 that an action for 2009 is planned to amend sanctuary
20 regulations to include resource protection measures
21 associated with vessel speed, i.e., regulate whale
22 watching. Yet the only study done to date has been
23 an extremely limited study done solely on a handful

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1 of commercial whale watch vessels looking only at the
2 speed portion of the guideline.

3 There was no means to look at jeopardy,
4 harassment or strike risk yet the sanctuary issued a
5 press release that ended up in an article in The
6 Boston Globe that was very libelous saying -- the
7 title was, "Whale watching boats are putting whales
8 in jeopardy the study says."

9 When the whale watch guidelines were
10 first written, they were supposed to be reviewed in a
11 year for functionality as operators at the time
12 indicated that the speed portion may be difficult to
13 follow depending on the species. It is also an
14 outrage that the plan recommends only voluntary speed
15 regulations for other vessels transiting the
16 sanctuary. Since the guidelines were revised
17 approximately ten years ago, there have been no whale
18 strikes by commercial whale watch vessels.

19 In closing, targeting whale watch
20 companies appears to be arbitrary and capricious, and
21 it's more about the sanctuary saying they are doing
22 something than actually protecting the whales. Whale
23 watch boats have on their own provided education,

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1 reported and stood by entangled whales, reported
2 right whales and provide data to science. The
3 sanctuary needs to work with their constituencies,
4 not attack them.

5 MR. MACDONALD: Thank you. The next
6 speaker is Raul Ross.

7 MR. ROSS: My name is Raul Ross. I am
8 a commercial fisherman and I have been for 60 years.
9 I was president of the Inshore Dragging Association
10 when Gerry Studds was proposing the Stellwagen Bank
11 Sanctuary. I had many meetings with Gerry Studds
12 over the sanctuary.

13 He promised me he would never bother or
14 hurt the commercial fishermen, the inshore dragging
15 men, that we would still have our rights to fish
16 there. This seems to me to be a proposal to take
17 those rights away from us. I look at a few things
18 here in this book. One is the trawl tracks. Being a
19 commercial fisherman all my life, trawlers never made
20 those tracks. They are not conducive to trawler

21 tracks. They are singles. They go in every which
22 direction.

23 A lot of the stuff that has been said
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1 here tonight by different people I agree with. We
2 need to do something, but don't take away the rights
3 that we had that were given to us by Gerry Studds.
4 Thank you.

5 MR. MACDONALD: Thank you, sir. Our
6 next speaker is Sean Cosgrove.

7 MR. COSGROVE: My name is Sean
8 Cosgrove. I work for the Conservation Law Foundation
9 which is New England's leading environmental group
10 with offices in Boston and four other New England
11 states. Thank you for all the work that you and your
12 staff have put into developing the plan. Obviously
13 that took a lot of time and energy.

14 I have never had the opportunity to
15 meet Representative Studds, but I am somewhat
16 familiar with his congressional record. It's obvious
17 by looking at his legislative accomplishments that he
18 is a very bright man and he worked incredibly hard to
19 represent his constituents. He is definitely a
20 leader in marine conservation and also in single
21 fisheries.

22 He was a driving force behind the
23 creation of the Marine Mammal Protection Act and was

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1 actually a very strong advocate for the Endangered
2 Species Act and for enhancing that act even when it
3 was under some very serious attacks. He was a strong
4 advocate as well for protecting wild areas in the
5 state of Alaska and even though the representative
6 from the state of Alaska strongly opposed him on
7 those, they maintained a very strong and very real
8 friendship.

9 I think that is part of our unique
10 challenge here. Gerry Studds is a man of vision
11 and foresight. There are a lot of things, impacts
12 and changes that we cannot see in the future that we
13 need to be able to plan for and be able to work out.
14 One of those happens to be the impact that we see
15 with climate change which is not really
16 representative in this draft management plan that you
17 have here, but 20 years ago nobody could predict the
18 amount of change that is going on now. We have to be
19 able to work towards those challenges.

20 The Conservation Law Foundation will be
21 submitting more formal comments, but I would like to
22 hit on some of the points tonight we are mostly
23 concerned about. We certainly do want to see

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1 stronger protections for marine mammals, especially
2 the North Atlantic Right Whale. We are very
3 concerned about impacts on the bottom habitat. There
4 are strong ideas for increasing the water quality
5 management provisions. We appreciate and also have
6 very strong concerns about impact on forage fish such
7 as herring, and obviously I would like to see a well
8 developed marine heritage program. Those are my
9 basic comments tonight. We will be submitting more
10 formal comments. Thank you.

11 MR. MACDONALD: Our next speaker is

12 Steve Milliken.

13 MR. MILLIKEN: My name is Steve
14 Milliken. I am the owner/operator of the Dolphin
15 Whale Watch out of Provincetown and also a member of
16 the sanctuary advisory committee and the National
17 Whale Operators Association down in South America. I
18 am going to try to be as quick as I can.

19 One of the things is some of the
20 reports where whale watch vessels are not abiding by
21 the guidelines and some of the other operators are
22 saying it is mainly the speed restrictions. Outside
23 of the "in close proximity" we have a situation where

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1 the boats can only go 7 knots to parallel the course
2 and the speed of a whale. That is pretty much the
3 main concern about the guidelines. Everything else
4 is I think pretty much adhered to, and this is where
5 they need to be revised.

6 If you can picture in your mind a whale
7 sitting in one position or boat sitting in one
8 position, sorry, and a whale traveling at 3 knots and
9 the boat drifting at 3 knots, that is 6 knots right
10 there. To follow that whale you have a 1-knot
11 leeway; and if the whale picks up speed or whatnot,
12 you go beyond that speed regulation. If he pops up
13 half a mile away on a dive, you never get up to the
14 whale under no circumstances. It's impossible.

15 One of the other whale watch operators
16 said there is a lot of communication out there. When
17 we are in close proximity to the whales, there is a
18 lot of communication. There's proper lookouts on
19 board looking for whales all the time.

20 One thing I would recommend, would like
21 to recommend is a review of the guidelines to fine
22 tune them. I don't think we need regulations. Since
23 the review of the guidelines -- I lost track of what

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1 I was talking about.

2 Since review of the guidelines -- there
3 were no vessel strikes in the past seven years since
4 the guidelines were put into place, the new ones; and
5 there has never been any detrimental impact on the
6 whales that has been known. There have been a couple
7 of small studies, and there has been nothing shown
8 that whale watching vessels bother the whales.

9 I have a couple of other notes I'm
10 going to try to do real quick. Certifications, I
11 think if they want to do that it should be done
12 outside of the sanctuary. The person who runs my
13 program has a Ph.D. For the last three years we have
14 had a program, and this year we had 50 nationalists
15 come and people talk from fisheries, universities,
16 Audubon just to name a few. There's a whole list.

17 As far as education for the vessel
18 operators, I think that is a great thing. I also
19 think that should be done within the industry and not
20 within the sanctuary. One reason is not all whale
21 watches are done within the sanctuary. Education is
22 the key. It's very important. My company does a
23 program, a yearly program where we review the

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1 guidelines, whale behavior; and they take a small
2 test after and I put it in a file. We talk about it.

3 We talk about the problems, issues at hand.
4 Different species act differently out
5 there. I think in the plan they said that there are
6 30 odd species of marine mammals on the sanctuary.
7 That is a lot of different behaviors. To make
8 regulations, you have to look at each species
9 individually. It's a very difficult task.
10 I guess I'll be quiet for now. Thank
11 you.

12 MR. MACDONALD: Thank you very much.
13 Mr. Dennis Waite is the next speaker.

14 MR. WAITE: My name is Dennis Waite. I
15 also work for the Dolphin Fleet Provincetown Whale
16 Watch. I have been in the party boat business for 36
17 years now. This is my 29th year as a whale boat
18 operator.

19 It seems to me like one of the biggest
20 benefits and assets to the sanctuary is public
21 awareness. You know, it's a nice looking piece of
22 water, but to the general public that is all that it
23 is. If you can get people out on that sanctuary to

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1 see what is going on out there, the birds, whales,
2 the fishing, I think there is no greater way to get
3 public support for the sanctuary as a whole.

4 I, too, recall when the whale watch
5 industry was pushing for the creation of the
6 sanctuary back in 1992. We would collect signatures
7 from passengers on the whale watch boats, and we
8 helped push through the passage of that legislation.
9 At the time everyone was assuring us that there would
10 be no detrimental effect to creating the sanctuary on
11 the commerce of whale watching, it would not affect
12 our business out there; but it seems to me we are
13 going down the road where it is beginning to affect
14 it.

15 It's creating speed limits. I mean
16 regulatory speed limits, not just guidelines but, you
17 know, rules, speed limits and distances to which you
18 can approach a whale and things like that.

19 I see them coming. We were assured
20 that never would happen. You can't -- as I said, I
21 have been doing this for 29 years. I've taken more
22 people out to see whales than anybody on the planet,
23 and you cannot -- there is no number you can go by as

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1 far as a speed limit goes.

2 To assess jeopardy or danger to a
3 whale, there is no distance in feet. It's a common
4 sense thing, and the whale watch industry I think as
5 a whole has done a fantastic job regulating itself as
6 far as guidelines go and the common sense approach of
7 looking at whales and keeping them safe, educating
8 people as to what goes on out there.

9 It's a phenomenal resource as far as
10 public awareness goes, and I hate to see the
11 hampering or the cutting off at the knees of some of
12 these companies if you implement speed limits. They
13 cannot get there from here. Some boats have to come
14 so far that they cannot -- you're really restricting
15 their ability to conduct business.

16 That is how I feel.

17 MR. MACDONALD: Thank you very much.

18 That was the last name I have who registered. Is
19 there anybody else who would like to offer comments
20 this evening? Come up, please, and identify
21 yourself.

22 DAVID CACONE: I didn't sign up to
23 speak. I'm Dave Cacone, Massachusetts Lobstermen's

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1 Association. Just a point of information for
2 clarification. Massachusetts is the only state that
3 has 100 percent compliance with whale safety
4 breakaway 600 pounds, 500 pounds in the critical
5 habitat breakaway, all sinking ground lines; and it
6 should be so noted that we have already accomplished
7 a lot of the entanglement guidelines that were
8 established earlier.

9 We have public information that will be
10 going out through hopefully the whale watch and
11 various organizations within the next few weeks that
12 will at least elaborate a little bit on what the
13 lobster industry has done in Massachusetts.

14 MR. MACDONALD: Thank you very much.
15 Is there anyone else who would like to comment?
16 Seeing none, this meeting is closed. Thank all of
17 you for coming. For those of you who have offered
18 comments, thank you very much. If any of you have
19 questions you want to talk to the staff about, please
20 see me, see Ben or any of the staff who are wearing
21 logos will be happy to talk to you while you're here.

22 Those of you who may know people who
23 want to come to future meetings, let them know about

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1 the schedule and direct them to our web site. Thank
2 you very much.

3 (Whereupon, the meeting was adjourned
4 at 8:17 P. M.)

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS:

PLYMOUTH, SS.:

I, ELAINE M. BUCKLEY, a Notary Public in and for
the Commonwealth of Massachusetts, do hereby certify:

That the said proceeding was taken before me as a
Notary Public at the said time and place and was

6 taken down in shorthand writing by me;
7 That I am a Registered Professional Reporter, that
8 the said proceeding was thereafter under my direction
9 transcribed into computer-assisted transcription, and
10 that the foregoing transcript constitutes a full,
11 true, and correct report of the proceedings which
12 then and there took place to the best of my skill and
13 ability;
14 IN WITNESS WHEREOF, I have hereunto subscribed my
15 hand and affixed my official seal this 21 day of June
16 2008.

14 _____
15 ELAINE M. BUCKLEY

16 My commission expires:
17 November 14, 2008
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