

Massachusetts Ocean Planning
Listening Session

Pollard Library
Lowell, MA

October 28, 2008
7:21 p.m.

1 (The Listening Session came to
2 order at 7:21 p.m. conducted by Mr. Weber.)
3 MR. WEBER: Thanks for coming folks.
4 We appreciate it. Typically when we've had more
5 people we've done something more formal where I give
6 a presentation, about 10 or 15 minutes, just
7 describing the Oceans Act and some details about
8 that. Then we've launched into a Q and A session.
9 I think because we're four people here, one of which
10 has been to plenty of these meetings and can almost
11 give what I'm about to say probably in his sleep,
12 will be more informal.

13 So what I will do is I'm going to speak
14 off this piece of paper and work off that. But as
15 I'm going through it, feel free to interrupt with
16 any questions, any comments, et cetera, et cetera.
17 And then we can certainly have more of a discussion
18 afterwards as well.

19 The reason for the big bright light out
20 there is that these are being videotaped and will be
21 put on line. All of them are being put on line.
22 This is about Number 15 or 16, I can't remember at
23 this point, of 18 of these listening sessions that

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1 we're doing. We have finished up the ones along the
2 coast, and we are moving inland and will be in
3 Springfield and Pittsfield the next couple of
4 nights. But the reason for videotaping them is so
5 that people who could not make it here tonight but
6 maybe wanted to and/or in the future for prosperity
7 when I want to know how badly I speak, I can go on
8 line and take a look. So these will be put on line
9 eventually.

10 On one of the pieces of paper that you
11 have, I think it's the one that is titled Overview
12 of the Act in the Public Process, if you take a look
13 on the back you'll see a couple of web sites. Those
14 web sites will get you a link to these videos when
15 they're available, should be in a couple of days.
16 As well as lots of other information about the
17 Oceans Act and the process we're going through. So
18 that is the reason for bright light.

19 There were a couple of handouts, and I
20 think you all have them. I am going to charge right
21 in and go into the presentation, but really, feel
22 free to interrupt at any point. And Matt, when I
23 say something that is not right --

1 MR. BOGER: You've done wonderfully,
2 and I'm sure you will do so again.

3 MR. WEBER: I am going to be speaking
4 off these slides. First question is what is an
5 ocean plan. You'll see a couple of things in those
6 bullets that are on there. To guide the use,
7 protection, and development of our ocean waters.
8 That is basically in some sense like what any
9 planning document is intended to do. Is to address
10 certain incompatibilities or potential conflicts.
11 Another way of saying that is look for
12 opportunities. Those can be either between
13 particular uses that are out there, fishing and
14 something else which could go out there, which could
15 interfere with fishing, or it could be uses in
16 natural resources. That is one way in general to
17 think about sort of what this plan is going to be
18 doing.

19 Overall through the Oceans Act, there
20 is a requirement or mandate from the Oceans Act to
21 look at balancing use, protection, and development.
22 Another way of saying the same sort of, a little bit
23 different spin on what I just said. You'll see an

1 implementation piece. One thing to note, no new
2 regulations are anticipated. There are changes to
3 existing regulations which could happen, but the
4 intent of the legislature was not to develop a new
5 overlay regulatory system but rather to implement
6 this through existing programs.

7 In any planning activity it's based on
8 a variety of information, environmental, economic,
9 and social information. Input from what we're
10 receiving at meetings like this from the public is
11 certainly part of that. And you'll see a couple of
12 things that, sort of another way of saying what an
13 ocean plan is and what it is intended to be, some
14 sort of rationale organization of uses of ocean
15 space, interactions between those uses, obviously
16 again the balancing idea. In a very general sense,
17 and if you have looked at the Oceans Act or would
18 look at the Oceans Act you'll see that there is a
19 strong public participation component in there. So
20 there is the final bullet there, the two objectives
21 in an open and planned way with the public.

22 Why do we need an ocean plan? First of
23 all as recognized in the Oceans Act the ocean is a

1 public resource. It is publicly owned, managed in
2 trust by the state, but it belongs to all of us. We
3 need to protect and enhance that, and we also know
4 and certainly coastal communities have built up
5 around the notion that we need to use the ocean.
6 Some uses conflict with other uses and/or the
7 environment, and that includes traditional uses as
8 well as emergent uses, i.e. renewable energy,
9 perhaps agricultural. Certain types of fishing, and
10 as fishing changes and moves ahead in that industry.

11 So again the ocean plan intends to
12 define a balance there, and a comment in there about
13 part of that balance then will, I think, will equate
14 to and frankly we've already seen developmental
15 proposes in the ocean that mean basically the ocean
16 as a whole, entire whole, cannot be considered an
17 unspoiled wilderness at this point. But nor can
18 development be allowed to occur everywhere. So
19 somewhere there is balance.

20 The Oceans Act seeks to achieve that
21 balance through the development of the ocean plan.
22 So a little bit more about the Oceans Act. Signed
23 into law back in June 2008, directs my boss Ian

1 Bowles Secretary of Energy and Environmental Affairs
2 with the assistance of an ocean advisory commission
3 and a science advisory council both mandated in the
4 Oceans Act to develop a comprehensive ocean
5 management plan. There is certainly a host of other
6 groups that are involved, through various avenues.
7 And I will touch on that in a few minutes.

8 The act directs that the ocean plan set
9 forth the Commonwealth's goals, siting priorities,
10 and standards as you can read on that final bullet.
11 I won't read that anymore.

12 The Oceans Act does a couple of other
13 things. It directs that the ocean plan seek to
14 coordinate uses that may cross federal, state, local
15 jurisdictions. So an example of that could be some
16 sort of offshore Cape wind type of project where its
17 turbines themselves are located in federal waters
18 but there is a cable across the state waters and
19 ultimately comes on land some place, and that
20 obviously triggers local review. So to the extent
21 that we can through the ocean plan according to
22 where appropriate and where it occurs, activities
23 that include such cross jurisdictional elements.

9

1 The Oceans Act has language in it that talks about
 2 fostering sustainable uses, capitalize on economic
 3 opportunity without significant detriment to the
 4 ecology or significantly natural use of the ocean.
 5 And then finally one thing, one last
 6 thing, the Oceans Act is that previously in the
 7 Oceans Sanctuary Act which had been on the books for
 8 decades there was some ambiguity as to if certain
 9 energy or electricity generating facility could be
 10 allowed. There was a question about that. The
 11 Oceans Act, 2008 Oceans Act removes that ambiguity
 12 and says yes they are allowed with the exception of
 13 the outer Cape Cod Ocean Sanctuary which is
 14 essentially offshore of the national seashore. But
 15 it provides two very important caveats. Yes they
 16 are allowed but must be consistent with the Act and
 17 must be appropriately scaled. That term is not
 18 defined in the act.
 19 And that's something that we'll be
 20 looking for specific public input on as we move
 21 forward with the plan development. How should we
 22 consider that term. And I guess I'll say we've
 23 heard a lot about that term so far. We've heard

10

1 people say it must have an economic component.
 2 There are some projects which by their very nature
 3 and scale may not fit with a particular coastal
 4 environment or setting. We have had some people say
 5 to come at it from a little bit of a different
 6 standpoint and say well, the issue of appropriate
 7 scale really is almost a cost benefit type of
 8 benefit, and to the extent there are some sort of
 9 costs associated with the project that would be
 10 located say offshore certain community. There must
 11 be benefits in that community. So mitigation type
 12 elements or some other type of thing. There are
 13 potentially several different ways to define what
 14 that means. I'm interested to hear if you have any
 15 thoughts on that.
 16 One very important caveat to the Oceans
 17 Act is it's not a fishery management. Fisheries as
 18 is the case now, remains under the jurisdiction in
 19 state waters of the State Division of Marine
 20 Fisheries. The Oceans Act is very clear about that.
 21 With that said, obviously we need to consider
 22 fisheries issues when thinking about anything out in
 23 the blue waters. So information on fisheries as I

11

1 will get into in a few minutes in terms of our
 2 overall information gathering process. There is a
 3 group that is looking at fisheries specific
 4 information.
 5 The Oceans Act also says that to the
 6 extent that there is something in the ocean plan
 7 that may have an economic impact on fisheries, that
 8 impact must be reviewed by the Division of Marine
 9 Fisheries. And exactly how that is to happen and
 10 exactly what that may entail, it's a little bit too
 11 soon to say, other than we know at some point we're
 12 going to need to address that. So this is not a
 13 fisheries management bill. However, the issue of
 14 fisheries is certainly important and included in
 15 what we're doing.
 16 A little bit about the schedule, a
 17 schedule has us sending the legislature a draft plan
 18 by June 30, 2009. So 8 months. Good heavens. And
 19 a final plan by December end of 2009. That final
 20 plan, what happens in June 2009 is a draft plan is
 21 submitted to the legislature. They hold a series of
 22 formal public hearings all within the eye toward
 23 promulgating a final plan at the end of 2009. Based

12

1 on that schedule, and also based on the information
 2 that we're gathering, and the fact that there are
 3 going to be some data gaps, some areas where we
 4 don't have as much data as we would like.
 5 Those two issues kind of come together
 6 and sort of say two things of what this ocean plan
 7 is going to be. It's going to have 2 main things.
 8 The first one there, identifying areas suitable for
 9 different kinds of development of protection and
 10 including implementation measures. The Oceans Act
 11 directs that the ocean plan be spatial in nature.
 12 I.e. have maps, so we have to do that. We have to
 13 be responsive to that.
 14 The second thing, though, that I think
 15 this first, and before I get into that, the Oceans
 16 Act also directs that the plan be reviewed formally
 17 by the legislature at least once every 5 years.
 18 It's meant to be a living document. So that means
 19 that a very important component of this first
 20 version of the plan, the one that is due
 21 December 31st, a draft by June is that it must lay
 22 out a framework and strategy and probably some sort
 23 of prioritization included in that for how we're

1 going to move forward not only accumulating or
 2 acquiring the scientific information that we're
 3 going to identify that we need, but also how to
 4 incorporate that into the plan. What is going to be
 5 the process for that? How are we going to include
 6 the public in that? How are we going to have a
 7 check on the management measures that are in there?
 8 How is this adaptive management, how are we going to
 9 do that? What indicators are we going to use? All
 10 of that. And that's going to be a very important
 11 part of this first year of the project.

12 So to get there we have really three
 13 main steps before the final form review step. We
 14 spoke a little while ago about Phase 1 that we're in
 15 now is kind of alluded to that as being a gathering
 16 information stage. That is kind of taking three
 17 main avenues. One is wrapping our arms around
 18 scientific information databases, GIS type
 19 information that is out there. That has primarily
 20 been happening through a series of 6, 5 or 6 agency
 21 work groups. We are also reaching out to folks of
 22 various interest groups that are out there to see
 23 what information they may have. Even of a more

1 qualitative nature in addition to this more
 2 quantitative nature that is associated with much of
 3 the GIS base data. The main purpose is to establish
 4 a baseline. In other words describe what we know
 5 about the ocean environment today.

6 Importantly also in that is describing
 7 what gaps in information there are and what gaps in
 8 our knowledge that there are. That's one main
 9 avenue.

10 The second main avenue after meetings
 11 like this, and I think we're up to about 50 or so
 12 different interest groups, advocacy groups, whatever
 13 term you want to use, that we're meeting with on a
 14 one-on-one basis to find out what their issues are,
 15 what goals they would like to see out of the ocean
 16 plan, if they have any information they would like
 17 to share. All of that sort of in that big, big box
 18 called public input is being used to develop
 19 planning principles. Call those planning goals,
 20 objectives of the plan, what the plan should seek to
 21 achieve. That is a main focus of these meetings
 22 right now is to try to gather that information so we
 23 can set the stage for being responsive to that as we

1 move forward in developing a plan.
 2 And then there is a final third sort of
 3 gathering information component which has to do with
 4 looking at the 8, 12, 15 areas around the world
 5 where some sort of planning in the ocean along the
 6 lines of what the Oceans Act requires has happened.
 7 Kind of trying to learn from those activities and
 8 best practices and that sort of thing. Running that
 9 through a filter through the specifics of the
 10 Massachusetts Oceans Act and our environment here,
 11 but there is some good stuff to learn.

12 So all of that. Then ongoing now
 13 roughly concludes the end of the year, and then
 14 Phase 2 is to develop a draft plan. And that is
 15 going to be also a public component to that in terms
 16 of rather than a series of maybe 18 public meetings
 17 there will be some more longer term roll up your
 18 sleeves, maps on the wall, and data and information
 19 on tables. Let's really get to work and using GIS
 20 if we overlay the data, this is what it looks like,
 21 see some opportunities or conflicts, maybe if you
 22 weigh things a little differently or you look at it
 23 from this angle might look a little different. It's

1 really getting to that, and to that in a public way.
 2 That is going to require us to do a lot of homework
 3 to come to some sort of analysis work having been
 4 done. Again the idea there is look at various
 5 scenarios or different ways of making planning
 6 divisions, working through those areas of conflict
 7 that there are going to be at a situation where
 8 people have time to get into that and understand
 9 what we're talking about. In the 3- or 4-hour
 10 meeting on Saturday afternoon, could be something
 11 like that. I'm not sure.

12 The outcome of that is intended to be a
 13 working draft plan. And that is roughly the
 14 February, March, April type of time frame. Once we
 15 have that working draft plan, which this and the
 16 next step they may be mashed together a little bit,
 17 may not be a clean demarcation between those two
 18 steps, but the idea is with a working draft plan go
 19 back out to the public in a series of meetings along
 20 the lines of what we're doing now. Maybe there is
 21 18, to present that back to the public and say we
 22 came and listened to you in the fall of 2008. We
 23 did some work in the interim. Some of you attended

1 those meetings where we did that work. What do you
 2 think? How did we do? Did we achieve what you were
 3 looking for? Get that kind of feedback. That is
 4 also meant to be a bit of a roll up the sleeves type
 5 of setting in part because once again the
 6 legislature, those formal public hearings have a
 7 purpose. They're more formal. Go up to a
 8 microphone, speak, suited, sitting at the table
 9 listening to you. That type of thing. We need to
 10 have more of a give and take before we get to that
 11 point. That's roughly a May June type time frame,
 12 all of which again leads to we make changes and we
 13 change the draft as we need to and submit it to the
 14 legislature. The legislature does their thing.

15 One interesting comment that has come
 16 up is that the legislature in that July through
 17 December time frame, that is a long time, not
 18 exactly sure, obviously when they're going to hold
 19 formal public hearings. I can guess on when that
 20 would be. It is possible if there were significant
 21 changes that were to come out of that legislative
 22 process, we would go back out to the public again.
 23 Who knows at this point. We would have to see sort

1 of how that was going when it got up to the
 2 legislature and what the timing of all that was
 3 going to be, et cetera, et cetera.

4 So when I say, I guess my point in
 5 saying that is while step 4 on here states it's a
 6 formal review, I mean that's a year from now. So
 7 that's sort of loosely defined at this point. And
 8 then importantly, after the legislature sort of
 9 gives their final blessing to the plan, the ocean
 10 plan, the ocean plan will be integrated into the
 11 State Coastal Zone Management Program. That sounds
 12 awfully bureaucratic, but it's actually important
 13 because that's a very strong mechanism existing now
 14 that the state has a way to weigh in on federal
 15 activities in federal waters. Through a provision
 16 in the Coastal Zone Management Act, very very
 17 important actually component of this when we get to
 18 that point.

19 That's my spiel. You'll see some
 20 questions at the end on the last block, your
 21 comments and participation. The idea there is just
 22 little teasers if people want to respond to any of
 23 those questions, that's great. If people have other

1 questions or want to discuss something else, I'm
 2 more than happy to answer questions.

3 Matt, do you.

4 MR. BOGER: You did wonderfully.

5 Wonderfully. I would defer to DEP. I would be glad
 6 to make a few comments.

7 MS. EDMONDSON: You go, and I'll make a
 8 few comments.

9 MR. BOGER: First and foremost we made
 10 our formal statements at the first meeting in
 11 Boston. And this being the first in the nation, we
 12 have to applaud, we did today, thank you for
 13 inviting us this morning to come talk. And the
 14 immense public participation that you guys have
 15 started off, and through your first discussion it
 16 sounds like maybe even at another venue for public
 17 discussion, we really applaud that and think that is
 18 critical to that. And having these on line, which I
 19 know was up yesterday, Monday, and having the
 20 opportunity for the general public to submit
 21 comments directly there, I think, is significant,
 22 and we are looking to show that to other interested
 23 parties throughout the nation to utilize that.

1 We are Massachusetts Ocean Coalition
 2 representing about 25 environmental groups. Ocean
 3 Conservancy, Mass Audubon, Conservation Law
 4 Foundation. First and foremost, John, as you know,
 5 and I think fairly obvious from the title of our
 6 organization, protection and preservation is
 7 something that is critical to us. And as the
 8 legislation states, that is one of the functions we
 9 believe should be the backbone of that, and I
 10 apologize a little bit for being repetitive, but I
 11 think just to get used to it for a year we're going
 12 to be maintaining that mantra.

13 Additionally, you had pointed out
 14 renewables which is something that is definitely
 15 needed here in Massachusetts, in the United States,
 16 and around the world. But the concept behind
 17 appropriate scale is something that really needs to
 18 be fleshed out, and making sure that basically one
 19 size fits all is not appropriate which I think is
 20 fully understood and making sure that the specific
 21 environments that you're looking in, the different
 22 areas of the whole coast there is a lot of different
 23 sections that have different habitat, et cetera,

21

1 that needs to be considered. That being said we do
2 think that's an important part of it.

3 And then the other thing that you
4 pointed out was data collection is going to be so
5 critical. As you said, there is 6 working groups
6 working diligently, the state, and a variety of
7 different other working organizations. I know the
8 Nature Conservancy which is a member of our
9 coalition is working with that as well is going to
10 be critical to A, identify what you guys have but
11 also as you say what you don't have. And then
12 additionally our legislation calls for every 5 years
13 to review it. What information that you don't have
14 that needs to be collected but additionally the
15 ocean is continuing to change and how that change is
16 going to affect the decisions you guys make in the
17 future. Additionally with renewable energy there
18 are facilities that haven't, or the technology that
19 hasn't been fully thought out, so that needs to be
20 taken into account as well.

21 We do have five working principles that
22 we submitted. I guess almost a month ago at number
23 1 which if you don't mind I'll read real quickly.

22

1 As one, identify, protect special,
2 sensitive or unique estuarine habitats. Any use of
3 the ocean should not alter or endanger the ecology
4 of the ocean. As legislation specifically states,
5 the plan shall, "Identify and protect special,
6 sensitive unique estuarine and marine life habitats.
7 As I said we believe that should be a major focus
8 and backbone.

9 Secondly, identify appropriate scale.
10 Appropriate scale will be an important term to
11 define and should relate specifically to the habitat
12 and resources defining different areas within
13 Massachusetts water.

14 Number 3, use the best available
15 scientific understanding of ocean wildlife and
16 underwater habitats.

17 Number 4, develop an open process for
18 incorporating new information and collecting data
19 that doesn't already exist. And again that should
20 be something that is built in so that even when
21 December 31st, 2009 comes along the next day January
22 1, 2010 more information, if it was out there could
23 be added to that.

23

1 And then 5, balance the uses of the
2 ocean with protections for marine wildlife and
3 habitat. The ocean plan should develop a way to
4 determine what uses are compatible with each other
5 and the unique habitats on which they take place and
6 the species that they may affect.

7 Once again we really applaud yourself
8 at hearing and Secretary Bowles for the wonderful
9 work you have done and will continue to do, and
10 again, we stress the importance of the public
11 participation and seeking information from my group
12 and all the other ones here, and then throughout
13 Massachusetts. You've done a great job. Thank you.

14 MR. WEBER: Who is next?

15 MS. EDMONDSON: I just want to say from
16 the Department of Environmental Protection's
17 perspective I think the ocean management plan is a
18 very critical part of the overall effort for us, and
19 actually beyond DEP the Commonwealth is really
20 working to address the role of energy and the
21 challenge of climate change and moving forward with
22 finding ways to address the needs of a population
23 and the energy demands that we expect to see and

24

1 continue to see against the natural resource
2 protection responsibilities that we have and the
3 department has. And I think what I appreciate about
4 this process is that we are soliciting widespread
5 input, and I know that many of the meetings have
6 been extremely well attended. I think in any kind
7 of public process it's critical to get that, and I
8 think what we're also developing is an approach for
9 public policy making that can include other
10 programs. So I think in that regard I think the
11 effort is very important as well.

12 So I actually have a couple of
13 questions about some of the things you talked about
14 which I would like to ask. If you could talk a
15 little bit more about the piece of integrating into
16 the Coastal Zone Management plan. I was interested
17 in the federal piece, so say more about that.

18 MR. WEBER: That, I don't know how
19 familiar you are with anything about how all of that
20 works. The Coastal Zone Management plan has a
21 federal counterpart in NOAA, called the Office of
22 Ocean and Coastal Resource Management. And
23 certainly, O C R M, and I'll probably slip up and

1 use that. O C R M is the federal entity that kind
 2 of is most closely involved with implementing the
 3 Coastal Zone Management Act from particularly a
 4 funding standpoint. So when C Z M gets a lot of its
 5 funding federally comes through O C R M. So they
 6 are sort of the C Z M, the state C Z M's office
 7 counterpart in D C are the O C R M group. They do a
 8 couple of things that are very important in addition
 9 to funding. They are responsible for reviewing
 10 state coastal programs and seeing if those state
 11 coastal programs are, I am not going to remember the
 12 exact word, but if they are, essentially they make a
 13 decision as to if those coastal programs are
 14 approved pursuant to the C Z M A, the federal
 15 Coastal Zone Management Act. If they are, that
 16 triggers the use of federal consistency which I
 17 talked about a little bit before. So in other words
 18 in order for a state to use the federal consistency
 19 clause in the federal Coastal Zone Management Act,
 20 it must have a federally approved, i.e., approved by
 21 O C R M coastal management program.

22 So Massachusetts has one now. It was
 23 last reviewed and approved sometime within the last

1 five or 10 years. So consistency is operating now.
 2 There is a set of policies that operate right now.
 3 To the extent that the ocean plan will obviously be
 4 a change to the coastal program, any changes have to
 5 be approved at the federal level as well. So there
 6 will be a bureaucratic process after final
 7 promulgation that the federal counterpart the
 8 O C R M will undergo. We have started talking with
 9 them about how long that might take. Practically
 10 speaking what does that mean in terms of in
 11 compliance. Don't have a clear answer because in
 12 part it depends on the scope of the ocean plan.
 13 When it comes down to enforceable policies. So
 14 there is additional steps that take place at that
 15 point.

16 MS. EDMONDSON: Before it goes into
 17 effect really.

18 MR. WEBER: That's what I was about to
 19 say. It is very likely that there will be other
 20 changes to existing regulations, possibly the
 21 Wetland Protection Act, possibly the Chapter 91.
 22 Possibly maybe even the state's Endangered Species
 23 Act. I'm not really sure. Those conversations have

1 not started yet. But those changes could, there
 2 could be changes to those existing regulations that
 3 would be on sort of a separate track in this federal
 4 approval of the coastal program. How all of that
 5 would knit together would be a subject of a lot of
 6 conversation particularly when we get down to
 7 identifying. This basically gets the implementation
 8 of the plan. When we get down to identifying how it
 9 will go, then those conversations will really begin,
 10 and that won't happen and has not happened at this
 11 point only because, other than very, very generally.
 12 We're not sure what the plan is going to include.

13 MS. EDMONDSON: Has the Federal
 14 Government provided any input so far? Have they
 15 participated in sessions?

16 MR. WEBER: In a number of different
 17 ways. As I said we reached out to our NOAA
 18 counterpart and have had a couple of conference
 19 calls with them saying Hey, here is what we are
 20 doing. So let's start talking now, and they said
 21 great, let's talk more when you know more of what
 22 you're doing. So it's the cat chasing the tail
 23 there, but more to the point from that, we also, I

1 mentioned as a series of 50 different groups that
 2 we're reaching out to, that includes federal agency
 3 folks, and in lots of different situations.
 4 We have, for example, we have met with
 5 some of the fish and wildlife services and managers.
 6 Parker River and Southeast Massachusetts office that
 7 has Noman and Monomoy and Tucker Nut and something
 8 on Nantucket. So we've chatted with them. Today we
 9 were at a meeting of a group that is called the
 10 Northeast Regional Ocean Congress and Rock.

11 MS. EDMONDSON: Yes.

12 MR. WEBER: We chatted with them
 13 together and that was great because that included
 14 interior as well as fish and wildlife service and
 15 maybe one other line agency out in the interior,
 16 NOAA, NIMS, another branch office in NOAA, the coast
 17 guard, EPA, USGS, some I'm forgetting. So a bunch
 18 of the agency folks were there. We also started
 19 talking with the Corps of Engineers who have a
 20 regulatory component of that. And I'm sure there is
 21 someone I'm forgetting.

22 MS. EDMONDSON: Thank you.

23 MR. BOGER: Can I do a follow up? You

1 said, so I understand, that this may affect other
2 laws out there. You said that it might change the
3 Massachusetts Endangered Species Act.
4 MR. WEBER: Maybe. I have no idea. I
5 would, my overall point is not to say that we're
6 singling out. I don't know. It's possible. How it
7 would change I have no idea. My point was probably
8 trying to run down in the list in my head of the
9 really important environmental laws.

10 MR. BOGER: That one popped up. You
11 indicated OCR, Office of Ocean --

12 MR. WEBER: And Coastal Resource
13 Management. Honestly if I had to guess right now
14 Chapter 91, I mean this is public trust water that
15 we're talking about, and inasmuch as Chapter 91 is
16 the state's public trust implementation arm
17 essentially, I would imagine there would be a strong
18 link there. I have to think that.

19 Wetlands Protection Act also possible.
20 And beyond that, you know, I don't know. The
21 Endangered Species Act it's possible. I don't
22 honestly think it's very likely because I can't
23 figure out what that would be. But it's possible.

1 There is something there.

2 MS. EDMONDSON: One thing maybe you can
3 clarify for the group, and I know this came up at
4 the Woods Hole meeting or maybe at one of the
5 earlier meetings, the issue of where is the border
6 for the Ocean Management Act versus the coast?

7 MR. WEBER: One of the handouts you
8 have is a map which will show very clearly the state
9 federal border. It is that line that is the most
10 seaward line on there. It is approximately 3 miles
11 offshore.

12 MS. EDMONDSON: What about on the land?

13 MR. WEBER: It's approximately 1,500
14 feet seaward of mean low water.

15 MS. EDMONDSON: So it does not affect
16 the beach. It could certain pieces but --

17 MR. WEBER: Correct. There are a
18 couple of islands that are included. Maybe one or
19 two small ones in Salient Sound. I think there
20 might be a couple down around Elizabeth Island. So
21 there is that.

22 The other thing you'll notice you'll
23 see some areas where it's obviously more than

1 3 miles offshore and more than 1,500 feet offshore.
2 Those are just closure lines like if you look around
3 Boston Harbor, good example of that. It doesn't
4 follow every nook and crannie once it gets into,
5 what is the right word, more dendritic.
6 Legislature's intent was for this to be a blue water
7 plan. Not really get into a whole lot of dock and
8 marina type of issues.

9 MR. DANIELS: The feeling was that
10 there was enough regulatory control over the first
11 1500 feet already with 91 and everything else?

12 MR. WEBER: Pretty strong feeling that
13 way, not to say there aren't issues there. I think
14 we're aware there are, but that was not what this
15 particular process was intended or this particular
16 plan was intended to address.

17 The one thing that I would say, and
18 this is something that if you have input on we would
19 appreciate, we sort of talked a little bit about
20 habitats and maybe we've said the word ecosystem
21 tonight, maybe we haven't. I'm not really sure.
22 Same idea. Obviously things like water and fish,
23 could care less about those. Really.

1 MS. EDMONDSON: Although they come to a
2 line and oh, I have to turn around.

3 MR. WEBER: One of the things that
4 we're wrestling with is that the Oceans Act directs
5 the plan to be scientifically vigorous. Secretary
6 Bowles is very much adamant that the plan has to be
7 scientifically vigorous, and that is only
8 appropriate. How do you mesh that with these marks?

9 How do you address that? There are some ways that
10 we have, come up in some of the public comments, for
11 example, we had a public comment, I think it was
12 Salisbury, that basically said if the plan is going
13 to identify areas offshore that might have suitable
14 sand resources for extraction purposes for use on a
15 beach, if that is the case, if the plan is going to
16 do that, then such locations should consider the
17 areas off shore where that resource might be needed.

18 In other words, and this is big issue in Salisbury,
19 concerned about erosion, but if the plan doesn't
20 identify any sand resources except -- out of the
21 vineyard it's not very helpful. I don't know if the
22 plan should be helpful in that regard. But that is
23 the type of thing that I think is worth

1 consideration, even though obviously on beach
 2 nourishment would be outside the, quote, planning
 3 area. We have to account for what is going on on
 4 either side of those lines, in federal waters. So
 5 how do we do that? How do we get to that? I think
 6 that's an issue we're grappling.
 7 I mentioned the science advisory
 8 council. It includes mostly folks from academic
 9 institutions in Massachusetts as well as the
 10 Aquarium, USGS, CZM, Division of Marine Fisheries.
 11 That I think is something that they're going to be
 12 coming back to repeat, as to how to address this.
 13 How we wrap our hands around this issue. And you
 14 could say the same, there has been a lot of focus
 15 and attention on this looking at the sort of the
 16 estuarine insight thing, obviously the Merrimack
 17 River is an integral part of what happens up around
 18 Plum Island Sound. How do we address that. But you
 19 can also make the same point and has been made in
 20 several public meetings about further off shore as
 21 well.

22 MR. DANIELS: Just a follow up question
 23 for the nitpickers in the world, is there a metes

1 questions. If the act did take effect in 2008, I
 2 assume that the legislature provided seed money to
 3 the various -- no.

4 MR. WEBER: (Indicating).
 5 MR. DANIELS: Let me finish my
 6 question. So the various agencies that have some
 7 responsibility here and to fund the council and the
 8 commission.

9 MR. WEBER: No.
 10 MR. DANIELS: Now in the 2009 budget is
 11 there money in fact set aside for this?

12 MR. WEBER: No.
 13 MR. DANIELS: So how is the agency --
 14 MR. WEBER: Existing resources.

15 MR. DANIELS: How are the agencies
 16 doing this?
 17 MR. WEBER: Existing resources.

18 MR. DANIELS: EOEEA is taking some
 19 existing resources and shifting them over to work on
 20 this act.

21 MR. WEBER: There may be one position
 22 that was funded through bond money when the bond
 23 passed earlier this year. Other than that I'm not

1 and bounds description of the planning area?

2 MR. WEBER: Yes. There actually is.
 3 MR. DANIELS: So many feet off Thatcher
 4 Island, it's something that actually describes the
 5 boundaries, okay.

6 MR. WEBER: There is. There is
 7 metadata for it. Fully developed metadata. Just so
 8 you know it's based on 2001 NOAA mean low water
 9 chart, I might be wrong on the year for that very
 10 reason because that is a fixed known set of
 11 coordinates basically.

12 MR. DANIELS: Good. Next question, I'm
 13 looking at the act and it doesn't appear that was
 14 passed as emergency legislation so it was passed on
 15 May 28th does that mean it didn't take effect for
 16 90 days?

17 MR. WEBER: I don't know the answer to
 18 that.

19 MR. DANIELS: That would have been June
 20 July August. It wouldn't have actually taken effect
 21 until this fiscal year whereas if it had been an
 22 emergency act it would have taken effect in '08.
 23 I'm just leading up to mechanical and administrative

1 aware of any positions or there is not an operating
 2 budget that the legislature set aside.

3 MR. DANIELS: There is nothing in the
 4 act for that purpose.

5 MR. WEBER: One thing I have been
 6 remiss not having said so far is that there is the
 7 Massachusetts Ocean Partnership. I don't know if
 8 you've heard of that. They are an organization we
 9 work with very closely. They are privately funded
 10 through a plus million dollars from the Moore
 11 Foundation, and if it weren't for them we could not
 12 be doing what we're doing now, and so we're
 13 coordinating very closely with them. Just sort of
 14 providing you a bit of information on some of the
 15 data acquisition that is going on, there are a
 16 couple of particular data sets that need some work,
 17 to bring them into the GIS system the state is
 18 using sort of as a storing system. They are helping
 19 with looking at other places that have done this
 20 type of thing around the world, and we can learn
 21 from that. They're helping with that. They are
 22 funding things like that. So they're helping with
 23 the communication.

1 MR. DANIELS: Are there programs
 2 EOEAA can apply to for grants, known programs?
 3 MR. WEBER: Potentially, yes, and one
 4 of the things that will be part of the, we spoke
 5 about the plan having two components. One is how do
 6 we move forward, acquire more information, process
 7 that information and all of that. Some thinking on
 8 that will also go into how are we going to fund
 9 that. How do we do that. And looking for partners
 10 with, private side partners with academic
 11 institutions, funding opportunities that may or may
 12 not be out there. Absolutely.

13 MR. DANIELS: My next question the
 14 trust fund hasn't been seeded then.

15 MR. WEBER: It has not. No. And
 16 legislation has some specific, well, it has a little
 17 bit of specific language about that trust fund where
 18 funding and that can come from. There is no money
 19 in that right now. And that will be one thing that
 20 will be looked at as part of the plan develops, I'm
 21 assuming. How would that, what would a plan for
 22 spending that money once money gets put in there,
 23 how would that happen.

1 MR. DANIELS: No perpetual plan. There
 2 is going to have to be a thread of a funding source
 3 over the years. Is it the intent to administer the
 4 plan from the trust fund eventually?

5 MR. WEBER: Too soon to say. It could
 6 be. I don't honestly know. The trust fund if I
 7 remember right has some specific language about some
 8 of the uses that it's intended for. And certainly
 9 if and when money gets put into that trust fund
 10 there will be a lot of interest in that. So exactly
 11 how that would shake out, I don't exactly know. I
 12 guess I would step back and say right now this is a
 13 priority of the current administration. So it has
 14 come down from up on high agency resources shall be
 15 dedicated to this from existing agency resources.

16 MR. DANIELS: So if it hasn't been
 17 funded there is no rescission in the governor's
 18 October 15th message for funding for this.

19 MR. WEBER: Correct.

20 MR. DANIELS: So we're on an even
 21 playing field right now.

22 MR. WEBER: Correct. There has been no
 23 money placed into that trust fund.

1 MR. DANIELS: Okay. The council and
 2 commission, where are they in the process now to get
 3 to the draft plan?

4 MR. WEBER: They have both met once.
 5 The commission met in August. That was mid August
 6 if I remember right. Kick off meeting. It was to
 7 discuss sort of in general what I've outlined today.
 8 To talk about the public participation. At that
 9 point we were gearing up for this round of public
 10 meetings because we talked about that. They will be
 11 meeting again in about the second week of December,
 12 and at that meeting the anticipation is they will
 13 see sort of a synthesis of the results of these
 14 public meetings. In other words here is everything
 15 we heard in a report form, and help us to develop
 16 those plan principles that I spoke of, the goals of
 17 the plan.

18 The science council back in early
 19 September sort of similar introductory type of
 20 meeting, they have a very specific charge in the
 21 oceans plan. If you remember from the act it calls
 22 for them to develop or help EEA develop a baseline
 23 assessment. That's a main focus of their work right

1 now. They will also be meeting again in early
 2 December. I think that agenda will include a look
 3 at a draft of the baseline assessment, a first look.
 4 That is going to be an ongoing conversation, going
 5 to be a good size document, I think, and a lot of
 6 conversation about that, I anticipate. They may
 7 also at that point look at, we spoke of the agency
 8 work groups that are ongoing. Some of that work
 9 obviously feeds into a baseline assessment. So they
 10 may take a look at some of what underlying work that
 11 the agency work is doing.

12 And then if you want to hear more we
 13 shoot a bit ahead to January. In January, for
 14 particularly the commission, is a critical meeting
 15 because that will be, if we can keep on schedule,
 16 which we sort of need to, assistance in looking at a
 17 conceptual plan sort of based on the other plans
 18 that we've looked at around the world. What are
 19 those things that seems really applicable and things
 20 that this plan should seek to achieve, et cetera, et
 21 cetera. To help us as we develop entering that
 22 round of conversations about developing a draft
 23 plan.

1 And then beyond that, I mean their
2 involvement is critical to developing this. The
3 science council in particular moving forward as the
4 plan progresses is going to become very important
5 because of that piece about looking ahead to the
6 future and helping us prioritize big picture
7 questions and how we can address things like that.
8 So both entities are critical as we move forward.

9 MR. DANIELS: Thank you.
10 MS. SALES: I was just going to ask you
11 what you feel the role of organizations like the
12 Merrimack River Watershed Council, other watershed
13 organizations to be in this development time?

14 MR. WEBER: What do I think the role of
15 that is?

16 MS. SALES: Yes. Is there anything in
17 particular that you are looking for from us?

18 MR. WEBER: Input on issues and
19 concerns that you would have, absolutely. If you
20 had data or information that you feel is germane and
21 important and wish to share, albeit those being
22 important, absolutely. And any other comments that
23 you may have and wish to make at this point. I'm

1 If there is a river and leads to an embankment and
2 this embankment is discovered is the world's most
3 important habitat for the John Webers of the world.
4 And the plan decides we really like John Webers.
5 Then possibly that could help inform other decisions
6 that happen further upstream, just through the
7 normal course of regulatory review or other planning
8 type of activities that are involved.

9 So that's one very broad way that I
10 could see that. I guess it's also an important
11 point to state, I don't think I've said this before,
12 that on the ocean advisory commission are
13 representatives from each of the regional planning
14 agencies, and I fully expect that one of the things
15 they're going to be thinking about is this sort of
16 thing. We only met once, we haven't gotten into any
17 detail of conversation with them, but I fully
18 anticipate that. And also as I said I think it's a
19 question, we're all sort of at this point, I'm
20 scratching my head about I'm not exactly sure how
21 when it comes push to shove how that happens. I
22 honestly don't. I think that's why we need input on
23 it.

1 not trying to dodge your question but being wide
2 open with that. That's really honestly the case.
3 You know one of the interesting things
4 that I was getting at a little while ago was if you
5 think about an eco system basis for a plan like this
6 you have to think about watershed at some point, but
7 how do you do that in a manageable given our time
8 frame type way. If you have thoughts that would be
9 fantastic. But that is the type of things that we
10 will be discussing in more detail as we move ahead,
11 as to how to do that.

12 MS. SALES: One of the questions we
13 have from sort of a selfish point of view is we're
14 trying to do everything we can to clean up the river
15 and any extra punch essentially that we can get is
16 helpful. Do you envision this as essentially
17 providing another arrow to the quiver for those of
18 us who want to prevent, well prevent or encourage
19 the natural ecosystems or prevent the degradation of
20 them for I guess waters contributing to the ocean.

21 MR. WEBER: Absolutely, and I'll do it
22 in this way in the theoretical sense. Starting from
23 the premise that information is really important.

1 MS. SALES: Okay.
2 MS. EDMONDSON: It goes back to sort of
3 your great line question how do you measure
4 scientific rigor with the lines, that it's not
5 really possible. You need to understand what is
6 influencing the area that you're managing with this.

7 MR. WEBER: Yes. Depending. There is
8 a scale ability issue as well. Global change
9 affects the ecology up there. There is climate
10 changes going on. Deposition of airborne nitrogen
11 is important in some areas. And then there are
12 really tiny scale stuff that is really important.
13 That's a lot that makes me excited when I start
14 thinking about that. Trying to put a positive spin
15 on that.

16 My point is on a bunch of different
17 levels we're going to have that conversation. I
18 think repeatedly all throughout this and it's a good
19 one, we need to have that to check ourselves on
20 that. Another way of saying, and this was a comment
21 from a fellow in Gloucester when we were up there.
22 He said, da-dah, da-dah, da-dah, when you are
23 considering science be humble. When you get down to

1 that point of drawing lines on a map, be humble.
 2 Very well taken.
 3 MS. EDMONDSON: I would imagine some of
 4 the things that your organization thinks about with
 5 respect to the river, the same issues of balancing
 6 development and ecosystem protection and one of the
 7 sort of levers that you see as opportunities if
 8 those things could be influential to us as we're
 9 developing this plan for the oceans. Maybe on some
 10 level some of the lessons that you learn.
 11 MS. SALES: Quite possibly. I have to
 12 think a little bit more on how one area would apply
 13 to another or how those areas might be similar.
 14 MR. WEBER: It would be fantastic if
 15 there was an answer to that question. And I think
 16 we'll get there. I also do think that again some of
 17 this is going to go to the outlying years part of
 18 the plan. We're going to identify some fairly hefty
 19 things that we need to consider. So I would guess
 20 that some of this type of conversation would go that
 21 way as well.
 22 MR. BOGER: One follow up on what John
 23 was discussing and it's the 6 working groups working

1 very diligently. I have, actually I believe that
 2 conveyed to me that, I didn't mean to interrupt you.
 3 I thought you were going to do the opera thing and
 4 walk around. But when are those going to be able to
 5 be distributed for public comment? I know they're
 6 going for the science.
 7 MR. WEBER: If anything not persistent.
 8 Approximately some time for that December meeting.
 9 The science council. The internal deadline for the
 10 agency is November 21st. Things being what they
 11 are, I don't want to say November 21st because of
 12 the schedule but at that point the intent is that
 13 the final product will be public and certainly when
 14 they're discussed by the science council those are
 15 public.
 16 MR. BOGER: So they'll be reviewed by
 17 the science council and they in their infinite
 18 wisdom will be able to comment on that and we know
 19 many of the people and have full confidence in them.
 20 Will the greater public be able to make some input
 21 to you and the science council?
 22 MR. WEBER: Absolutely. I don't know
 23 in what form or vehicle. But keep in mind and you

1 and I have had this conversation before, what the
 2 work groups are doing is really getting a handle on,
 3 in their little area, subject area, what is the
 4 existing information out there. Not getting into
 5 the, okay, the navigation group has come up with
 6 this and that relates to the habitat group how?
 7 That's the planning activity that happens in
 8 January, February, March.
 9 MR. BOGER: Basically scrunched this
 10 together and figure out how they balance each other.
 11 MR. WEBER: Absolutely. So this is
 12 really as I said this phase is about information
 13 gathering and that's what that is.
 14 MR. BOGER: I apologize for repeats in
 15 the questions, which I might have, may be repeating,
 16 has the mapping of the ocean been complete? I know
 17 that some areas have been done. Is that a goal to
 18 do this whole area to figure out what is actually
 19 underneath there?
 20 MR. WEBER: You mean the sea floor
 21 mapping.
 22 MR. BOGER: Sea floor mapping, exactly.
 23 MR. WEBER: No, it's not done. It's

1 done through about a line heading from Race Point to
 2 the canal, roughly. And there has been some, a
 3 little bit of work down on the parts of Nantucket
 4 Sound. This is scheduled for the upcoming year.
 5 What Matt is referring to is use of
 6 sonar technology with partnership with USGS and
 7 NOAA. We have actually mapped the bottom type
 8 primarily from a substrate is it, gravel, sand, is
 9 it silt, is it cobble, is it bedrock standpoint. To
 10 help serve as a basis for beginning to think about
 11 mapping the habitat down there. There is some
 12 questions about that, but moving from geology to a
 13 biology basis and combine that moving forward and
 14 getting it to real habitat, but it's a phenomenal
 15 base map and great data to start from but we have
 16 not done that for the whole state. We have done it
 17 out of Cape Cod.
 18 MR. BOGER: I don't mean to prolong
 19 this but you said this would not be a major focus of
 20 ocean utilization. Is that what you said?
 21 MR. WEBER: Renewables are not allowed
 22 in that outer Cape Cod sanctuary.
 23 MR. BOGER: Okay.

1 MR. DANIELS: What other public
 2 opportunities will occur before the public hearings
 3 that occur as a result of the draft plan?
 4 MR. WEBER: Let's see, the meetings,
 5 there is a website that you can look at to get a
 6 schedule for a lot of what I'm about to say. So
 7 that's just for you. Meetings of the ocean
 8 commission and the science council are public.
 9 There, as I said, they're not up on line right now
 10 because we haven't set a date. We have to do that
 11 within the next week.
 12 MR. DANIELS: Will they be published in
 13 the Environmental Monitor?
 14 MR. WEBER: Good question.
 15 MR. DANIELS: It would be nice to put
 16 it in there.
 17 MR. WEBER: Good point.
 18 MR. DANIELS: There is a big
 19 constituency that reads that.
 20 MR. WEBER: We do have a list serve
 21 that we developed. If you're not on that we send
 22 emails sporadically that does things like announce
 23 the meetings. We have about 500 people right now.

1 Southeast Massachusetts, something like that. And
 2 maybe possibly a series of those 2 or 3 to the
 3 extent that that's necessary. Those would be
 4 public. And then as I said there is another, that
 5 leads into the round of public comments.
 6 If you have suggestions such as the
 7 Environmental Monitor or others to reach out to
 8 folks, that's also really appreciated.
 9 MS. EDMONDSON: The Ocean Partnership
 10 website has really good information and schedule of
 11 events. You can Google that and find it. Or it may
 12 be on here.
 13 MR. WEBER: I'm not sure if it's on
 14 there.
 15 MR. BOGER: I'll send you an email but
 16 the Massachusetts Ocean Action also has one
 17 connecting to that website and their own things
 18 along with it.
 19 MR. DANIELS: There are so many
 20 organizations, tie them altogether and you have a
 21 real good network.
 22 MR. BOGER: When is the last time, last
 23 date that someone from the general public can submit

1 There will be the usual advertisements of public
 2 meetings. There will be that. There is an on line
 3 commenting web site that is available right now that
 4 you can get to and provide comments. That website
 5 will continue on. We will use the web site to also
 6 post some of the stuff that Matt and I have been
 7 talking about. Group reports and synthesis of
 8 public comments all that stuff there will be
 9 available on line.
 10 After that, after that early December
 11 type of time frame there will be additional meetings
 12 of both the commission and the science council,
 13 ocean commission in January. Those will all be
 14 public, and then as I said there will be in some
 15 form, not exactly sure how yet, public meetings in
 16 that February March April type of time frame. I
 17 would imagine, we haven't gotten to the point of
 18 really flushing out where and when those are going
 19 to be. As I said though, I can imagine they would
 20 be 3 to 4 hours long which lends me to think they
 21 might be on a Saturday. They would probably be
 22 regional in nature rather than one meeting in Boston
 23 and maybe it's north shore or Boston, Cape,

1 comments that you will be able to use because I know
 2 you're collecting all this information that the
 3 website you submit information I think was developed
 4 or put up yesterday or Friday. When is the last day
 5 that we can kind of send people there to actually
 6 get to you to be utilized in an appropriate manner?
 7 MR. WEBER: Well, the website is going
 8 to be on line onto the future. I think though, an
 9 important deadline, I think I said before that one
 10 of the things we are focusing on is the development
 11 of the planned principle, and that is on the agenda
 12 for the ocean commission coming up in early
 13 December. That means that a report that summarizes
 14 the comments we have received will be prepared at
 15 some point before that. I don't know the exact
 16 deadline of when would be the cut off time for that.
 17 I would imagine it would be approximately, well,
 18 November 14th, November 21st maybe. That is going
 19 to be developed by the ocean partnership consultant.
 20 They'll need time to pull things together, get a
 21 draft, get reviewed, and then we want to make sure
 22 we get a mailing out significant with enough time,
 23 ahead of time for commission folks to take a look at

1 it. If we get a mail out first, work back.
 2 MR. BOGER: Now in 2009 if someone were
 3 to stumble upon it where would that information go?
 4 Would there be an update one or still --
 5 MR. WEBER: Absolutely. And it could,
 6 you could very easily see when we get to that, the
 7 website will be maybe changed a little bit in the
 8 future if we're looking for comments on a specific
 9 question or just specific points in the development
 10 of the plan. So in other words we may change the
 11 text of the website to say if you couldn't go to
 12 last Saturday's meeting where we discussed how silly
 13 John Weber is and you want to weigh in on that,
 14 please do so.
 15 MR. BOGER: I would weigh in. I just
 16 want to comment that is a great utilization for
 17 that, of that resource to actually pose questions
 18 and allow people who weren't, in the future 2009.
 19 So definitely applaud that.
 20 MR. WEBER: It's meant to be a dynamic
 21 thing. With that said, we'll be checking in on that
 22 even in the interim periodically. We'll be taking a
 23 look at that and see what is coming. I mean the

1 importance of the deadlines that you're speaking to
 2 is to the extent that the information that goes on
 3 those that gets into those comments gets then
 4 forwarded in the appropriate time period. I think
 5 that's where you have that.
 6 MR. BOGER: Thank you.
 7 MR. WEBER: Any other questions or
 8 questions? Suggestions? Thank you very much for
 9 coming out. Great conversation. Thank you.
 10 MR. BOGER: Thank you. Good forum.
 11 (The proceedings adjourned
 12 at 8:27 p.m.)
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 2 C E R T I F I C A T E
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 4
 5
 6 I hereby certify that the foregoing 54
 7 pages contain a full, true and correct transcription
 8 of all my stenographic notes to the best of my
 9 ability taken in the above-captioned matter at said
 10 time and place commencing at 7:21 p.m.
 11
 12
 13
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 15 _____
 16 Carol DiFazio
 17 Registered Professional Reporter
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