

MINUTES  
Pacific Fishery Management Council  
Seattle Marriott Hotel Sea-Tac  
3201 South 176th Street  
Seattle, Washington 98188  
206-241-2000  
March 5-10, 2006

- A. Call to Order ..... 6
  - A.1 Opening Remarks, Introductions ..... 6
  - A.2 Roll Call..... 6
  - A.3 Executive Director's Report..... 6
  - A.4 Council Action: Approve Agenda ..... 6
- B. Administrative Matters ..... 7
  - B.1 Approval of Council Meeting Minutes ..... 7
    - B.1.a Council Member Review and Comments ..... 7
    - B.1.b Council Action: Approve September 2005 Minutes ..... 7
  - B.2 Future Council Meeting Agenda Planning ..... 7
    - B.2.a Agenda Item Overview ..... 7
    - B.2.b Reports and Comments of Advisory Bodies ..... 7
    - B.2.c Public Comment..... 7
    - B.2.d Council Discussion of Future Council Meeting Agenda Topics..... 7
  - B.3 Legislative Matters ..... 7
    - B.3.a Agenda Item Overview ..... 7
    - B.3.b Legislative Committee Report ..... 7
    - B.3.c Reports and Comments of Advisory Bodies ..... 7
    - B.3.d Public Comment..... 7
    - B.3.e Council Action: Consider Recommendations of the Legislative Committee ..... 7
  - B.4 Appointments to Advisory Bodies, Standing Committees, and Other Forums ..... 8
    - B.4.a Agenda Item Overview ..... 8
    - B.4.b Council Action: Appoint New Members as Necessary ..... 8
  - B.5 April 2006 Council Meeting Agenda and Three-Meeting Outlook..... 8
    - B.5.a Agenda Item Overview ..... 8
    - B.5.b Reports and Comments of Advisory Bodies ..... 8
    - B.5.c Public Comment..... 8
    - B.5.d Council Action: Adopt Final Agenda for the April 2006 Meeting ..... 9
- C. Salmon Management ..... 9
  - C.1 Mass Marking and Coded-Wire Tagging ..... 9
    - C.1.a Agenda Item Overview ..... 9
    - C.1.b Pacific Salmon Commission Report ..... 9
    - C.1.c Reports and Comments of Advisory Bodies ..... 10
    - C.1.d Public Comment..... 10
    - C.1.e Council Discussion..... 10
  - C.2 Fort Bragg March 15, 2006 Commercial Fishery Opening ..... 10
    - C.2.a Agenda Item Overview ..... 11
    - C.2.b Agency and Tribal Recommendations ..... 11
    - C.2.c Reports and Comments of Advisory Bodies ..... 11
    - C.2.d Public Comment..... 11
    - C.2.e Council Action: Consider Modifying Opening Date ..... 11
  - C.3 Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates ..... 12
    - C.3.a Report of the Salmon Technical Team..... 12
    - C.3.b Agency and Tribal Comments..... 13
    - C.3.c Reports and Comments of Advisory Bodies ..... 13

C.3.d	Public Comment.....	13
C.3.e	Council Discussion on Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates.....	13
C.4	Identification of Management Objectives and Preliminary Definition of 2006 Salmon Management Options.....	14
C.4.a	Agenda Item Overview.....	14
C.4.b	Report of the Pacific Salmon Commission.....	14
C.4.c	Report of the Klamath Fishery Management Council.....	14
C.4.d	NMFS Recommendations.....	14
C.4.e	Tribal Recommendations.....	21
C.4.f	State Recommendations.....	21
C.4.g	Reports and Comments of Advisory Bodies.....	21
C.4.h	Public Comment.....	23
C.4.i	Council Recommendations for Initial Options for STT Collation and Description.....	23
C.5	Council Recommendations for 2006 Management Option Analysis.....	26
C.5.a	Agenda Item Overview.....	26
C.5.b	Report of the STT.....	26
C.5.c	Report of the KFMC.....	26
C.5.d	Reports and Comments of Advisory Bodies.....	26
C.5.e	Public Comment.....	26
C.5.f	Council Direction to the STT and Salmon Advisory Subpanel (SAS) on Options Development and Analysis.....	26
C.6	Council Direction for 2006 Management Options (If Necessary).....	27
C.6.a	Agenda Item Overview.....	27
C.6.b	Report of the STT.....	27
C.6.c	Reports and Comments of Advisory Bodies.....	28
C.6.d	Public Comment.....	28
C.6.e	Council Guidance and Direction for 2006 Management Options.....	29
C.7	FMP Amendment Scoping for <i>de minimis</i> Fisheries Associated with Klamath River Fall Chinook Impacts.....	31
C.7.a	Agenda Item Overview.....	31
C.7.b	Report of the Klamath Fishery Management Council.....	31
C.7.c	Agency and Tribal Comments.....	31
C.7.d	Reports and Comments of Advisory Bodies.....	32
C.7.e	Public Comment.....	32
C.7.f	Council Action: Provide Direction for Developing FMP Amendment Alternatives to Address <i>de minimis</i> Fisheries.....	32
C.8	Adoption of 2006 Management Options for Public Review.....	34
C.8.a	Agenda Item Overview.....	34
C.8.b	Report of the STT.....	34
C.8.c	Reports and Comments of Advisory Bodies.....	34
C.8.d	Agency and Tribal Comments.....	34
C.8.e	Public Comment.....	34
C.8.f	Council Action: Adopt 2006 Management Options for Public Review.....	35
C.9	Salmon Hearings Officers.....	36
C.9.a	Agenda Item Overview.....	36
C.9.b	Council Action: Appoint Hearings Officers.....	36
D.	Enforcement Issues.....	37
D.1	Fishery Enforcement Activity Report.....	37
D.1.a	Agenda Item Overview.....	37
D.1.b	Annual U.S. Coast Guard Report.....	37
D.1.c	Reports and Comments of Advisory Bodies.....	37

D.1.d	Public Comment.....	37
D.1.e	Council Discussion on Enforcement Issues .....	37
E.	Pacific Halibut Management.....	37
E.1	Report on the International Pacific Halibut Commission Annual Meeting.....	37
E.1.a	Agenda Item Overview .....	37
E.1.b	Summary of Meeting.....	37
E.1.c	Reports and Comments of Advisory Bodies .....	37
E.1.d	Public Comment.....	37
E.1.e	Council Discussion on IPHC Annual Meeting Report.....	37
E.2	Incidental Catch Regulations for the Salmon Troll and Fixed Gear Sablefish Fisheries.....	38
E.2.a	Agenda Item Overview .....	38
E.2.b	State Proposals for the Salmon Troll Fishery.....	38
E.2.c	State Proposals for the Fixed Gear Sablefish Fishery .....	38
E.2.d	Tribal Comments.....	38
E.2.e	Reports and Comments of Advisory Bodies .....	38
E.2.f	Public Comment.....	38
E.2.g	Council Action: Adopt Public Review Options for 2006.....	38
F.	Groundfish Management .....	38
F.1	NMFS Report .....	38
F.1.a	Regulatory Activities .....	38
F.1.b	Science Center Activities .....	38
F.1.c	Reports and Comments of Advisory Bodies .....	39
F.1.d	Public Comment.....	39
F.1.e	Council Discussion.....	39
F.2	Stock Assessment Planning for the 2009-2010 Fishing Season.....	39
F.2.a	Agenda Item Overview .....	39
F.2.b	Report from the Stock Assessment Process Review Workshop .....	39
F.2.c	Stock Assessment Options .....	39
F.2.d	Preliminary Stock Assessment Terms of Reference .....	40
F.2.e	Reports and Comments of Advisory Bodies .....	40
F.2.f	Public Comment.....	41
F.2.g	Council Action: Adopt for Public Review the Preliminary Terms of Reference, List of Stocks to be Assessed, and Stock Assessment Review Schedule for 2009-2010.....	41
F.3	Yelloweye Stock Assessment.....	43
F.3.a	Agenda Item Overview .....	43
F.3.b	Scientific and Statistical Committee Report .....	43
F.3.c	Reports and Comments of Advisory Bodies .....	43
F.3.d	Public Comment.....	44
F.3.e	Council Action: Approve Yelloweye Assessment and Rebuilding Analysis for use in the 2007-2008 Fishing Season .....	44
F.4	Pacific Whiting Management for 2006.....	44
F.4.a	Agenda Item Overview .....	44
F.4.b	Reports and Comments of Advisory Bodies .....	45
F.4.c	Public Comment.....	45
F.4.d	Council Action: Adopt 2006 Stock Assessment, ABC and OY Levels, and Management Measures .....	46
F.5	Consideration of Inseason Adjustments .....	47
F.5.a	Agenda Item Overview .....	47
F.5.b	Report of the Groundfish Management Team.....	47
F.5.c	Agency and Tribal Comments.....	47
F.5.d	Reports and Comments of Advisory Bodies .....	47

F.5.e	Public Comment.....	47
F.5.f	Council Action: Adopt Recommendations for Adjustments to 2006 Fisheries .....	47
G.	Habitat.....	47
G.1	Current Habitat Issues .....	47
G.1.a	Report of the Habitat Committee .....	47
G.1.b	Reports and Comments of Advisory Bodies .....	47
G.1.c	Public Comment.....	47
G.1.d	Council Action: Consider HC Recommendations.....	48
H.	Coastal Pelagic Species Management.....	49
H.1	NMFS Report .....	49
H.1.a	Regulatory Activities .....	49
H.1.b	Reports and Comments of Advisory Bodies .....	49
H.1.c	Public Comment.....	49
H.1.d	Council Discussion on NMFS Report for CPS .....	49
H.2	Fishery Management Plan (FMP) Amendment—Krill Management.....	49
H.2.a	Agenda Item Overview .....	49
H.2.b	NMFS Report.....	49
H.2.c	Reports and Comments of Advisory Bodies .....	49
H.2.d	Public Comment.....	49
H.2.e	Council Action: Adopt Final Preferred FMP Amendment Alternative.....	50
I.	Marine Protected Areas (MPA) .....	51
I.1	Fishery Regulation in MPAs within the Channel Islands National Marine Sanctuary through Magnuson-Stevens Act and State Management Authority.....	51
I.1.a	Agenda Item Overview .....	51
I.1.b	Northwest Hawaiian Islands Sanctuary Process .....	51
I.1.c	NMFS Report.....	53
I.1.d	Reports and Comments of Advisory Bodies .....	53
I.1.e	Public Comment.....	53
I.1.f	Council Action: Consider Adopting Public Review Alternatives for Area Closures in the CINMS .....	53
J.	Highly Migratory Species (HMS) Management .....	55
J.1	NMFS Report .....	55
J.1.a	Activity Reports .....	55
J.1.b	Reports and Comments of Advisory Bodies .....	55
J.1.c	Public Comment.....	56
J.1.d	Council Discussion.....	56
J.2.	Bigeye Tuna Overfishing Response .....	56
J.2.a	Agenda Item Overview .....	56
J.2.b	NMFS Report.....	56
J.2.c	Reports and Comments of Advisory Bodies .....	57
J.2.d	Public Comment.....	57
J.2.e	Council Action: Adopt Alternatives for a Pacific Council Position on an Overfishing Response for Bigeye Tuna for Public Review.....	57
J.3	Drift Gillnet Management.....	58
J.3.a	Agenda Item Overview .....	58
J.3.b	Highly Migratory Species Management Team Report.....	58
J.3.c	Reports and Comments of Advisory Bodies .....	59
J.3.d	Public Comment.....	59
J.3.e	Council Action: Adopt Final Preferred Alternative to Modify the Drift Gillnet Time/Area Closure .....	59
J.4	Exempted Fishing Permit (EFP) Applications for Highly Migratory Species.....	62
J.4.a	Agenda Item Overview .....	62

J.4.b Reports and Comments of Advisory Bodies ..... 62  
J.4.c Public Comment..... 62  
J.4.d Council Action: Final Recommendations for Approving EFP Applications ..... 62  
PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS ..... 63  
Public comments on fishery issues not on the agenda are accepted at this time..... 63

## **A. Call to Order**

### **A.1 Opening Remarks, Introductions**

Mr. Don Hansen, Chairman, called the 182<sup>nd</sup> meeting of the Pacific Fishery Management Council to order at 2:13 pm, on Monday, March 5, 2006. Mr. David Bedford was introduced as the designee for Alaska Department of Fish and Game. Ms. Eileen Cooney introduced Mr. Judson Feder, SWR, who will be more involved with the Council to work on HMS and CPS issues.

### **A.2 Roll Call**

Dr. Donald McIsaac, Council Executive Director, called the roll. The following Council Members were present:

Mr. Bob Alverson  
Mr. Phil Anderson  
Mr. Mark Cedergreen  
Mr. Donald K. Hansen (Chairman)  
Dr. David Hanson (Parliamentarian)  
Mr. Jim Harp (not present during roll call, but present during the duration of the meeting)  
Mr. Frank Lockhart  
Mr. Jerry Mallet  
Mr. Curt Melcher  
Mr. Rod Moore  
CDR. Fred Myer  
Mr. Dave Ortmann (Vice-Chairman)  
Mr. Tim Roth  
Mr. Roger Thomas  
Mr. Darrell Ticehurst  
Ms. Marija Vojkovich  
Mr. Frank Warrens  
Mr. Gordy Williams

Mr. Stetson Tinkham was absent.

### **A.3 Executive Director's Report**

Dr. McIsaac noted the likelihood of a large amount of public input on three agenda items.

### **A.4 Council Action: Approve Agenda**

Mr. Moore moved and Mr. Alverson seconded a motion (Motion 1) to approve the agenda as shown in Agenda Item A.4, Council Meeting Agenda, with the changes as requested by Mr. Frank Lockhart that Agenda Item C.2 be moved to Tuesday, and clarify that it includes consideration of closures for commercial and recreational fisheries.

**B. Administrative Matters**

**B.1 Approval of Council Meeting Minutes**

**B.1.a Council Member Review and Comments**

None.

**B.1.b Council Action: Approve September 2005 Minutes**

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 2) to approve the September minutes as shown in Agenda Item B.1, Draft September Council meeting minutes. Motion 2 passed.

**B.2 Future Council Meeting Agenda Planning (03/06/06; 2:21 pm)**

**B.2.a Agenda Item Overview**

Dr. McIsaac provided the agenda item overview.

**B.2.b Reports and Comments of Advisory Bodies**

None.

**B.2.c Public Comment**

None.

**B.2.d Council Discussion of Future Council Meeting Agenda Topics**

Dr. McIsaac explained that the staff was interested in trying to look at Council meeting agendas a little more strategically than in the past and would be bringing forth suggestions as the year progressed. Council members worked with the Executive Director and the Chairman to review the preliminary proposed agenda for April and provide some suggestions for incorporating in the final agenda for adoption on Friday.

**B.3 Legislative Matters**

**B.3.a Agenda Item Overview**

Mr. Burner provided the agenda item overview (03/10/06; 2:36 pm).

**B.3.b Legislative Committee Report**

Mr. Burner read Agenda Item B.3.b, Supplemental Legislative Committee (LC) Report.

**B.3.c Reports and Comments of Advisory Bodies**

Mr. Burner read Agenda Item B.3.c, Supplemental Groundfish Advisory Subpanel (GAP) Report.

**B.3.d Public Comment**

None.

**B.3.e Council Action: Consider Recommendations of the Legislative Committee**

Mr. Moore moved the Council adopt the recommendations as shown in Agenda Item B.3.b, Supplemental LC Report and to include a recommendation to put the issue regarding the Western and Central Pacific

Fisheries Conversion raised by Mr. Peter Flournoy on the April LC agenda. Mr. Alverson seconded the motion. Motion 24 passed. Mr. Lockhart abstained.

Dr. Hanson thanked the Council for approving the one-day Legislative Committee meeting held in December. It made a huge difference when reviewing such an important legislative matter. He was hopeful the LC would be afforded a similar meeting in the future.

Mr. Lockhart provided an update on the funding for the trawl survey as requested earlier in the week. Dr. John Stein came forward and stated that funds have been secured for the West Coast Groundfish Trawl Survey for this year and thanked Dr. Hogarth and Dr. Murawski for their efforts. Mr. Moore asked these were new funds or if funds were prioritized from other programs. Dr. Stein reported that the funds are not entirely new money, some funds are reprioritized monies. Mr. Moore asked Dr. Stein to inform the Council in the future as to what funds were reprioritized.

#### **B.4 Appointments to Advisory Bodies, Standing Committees, and Other Forums**

##### **B.4.a Agenda Item Overview**

Chairman Hansen lead the agenda item.

##### **B.4.b Council Action: Appoint New Members as Necessary**

Mr. Frank Lockhart moved and Mr. Bob Alverson seconded a motion (Motion 25) to appoint Mr. John Wallace to replace Dr. Jim Hastie on the Groundfish Management Team. Motion 25 passed.

Ms. Vojkovich moved and Mr. Ticehurst seconded a motion (Motion 26) to appoint Mr. Stephen Wertz to replace Mr. Stephen Croke on the Highly Migratory Species Management Team. Motion 26 passed.

Mr. Moore asked about the vacancy for the northern processor on the HMSAS? Dr. Coon replied that there is a long-standing vacancy for the northern processor position on the HMSAS.

Dr. Coon also pointed out the following vacancies: one vacancy on the Habitat Committee for the CDFG, formerly occupied by Mr. Michael Rode; and one vacancy on the HMSMT for the NMFS Southwest Fisheries Science Center, formerly occupied by Dr. Norm Bartoo. Both the NMFS Southwest Region and Southwest Science Center have requested the Council consider modifying Council Operation Procedure 3 to change the composition of the HMSMT and replace the vacant Southwest Science Center Seat with a seat for the Southwest Region. The Southwest Region has also submitted a nomination for Mr. Craig Heberer to fill the vacancy.

Mr. Lockhart asked that Council staff be considered as possibly being members of the advisory bodies.

#### **B.5 April 2006 Council Meeting Agenda and Three-Meeting Outlook (03/10/06; 2:54 pm)**

##### **B.5.a Agenda Item Overview**

Dr. McIsaac provided the agenda item overview.

##### **B.5.b Reports and Comments of Advisory Bodies**

Dr. Coon read Agenda Item B.5.b, Supplemental HMSMT Report concerning scheduling of comments on bigeye tuna and recommendations with regard to albacore and the U.S./Canada Treaty negotiations.

##### **B.5.c Public Comment**

None.

Minutes

March 2006 (182nd Council Meeting)

#### **B.5.d Council Action: Adopt Final Agenda for the April 2006 Meeting**

Mr. Moore asked Mr. Lockhart for a sense of when something final would be done with regard to Amendment 10 (whiting monitoring)? Mr. Lockhart said he believes the idea is to have it in place for next June's season. Mr. Moore said if we do this in June and September, final regulations might not be out in time. Mr. Lockhart said they recognize it is aggressive schedule, but that is the intent.

Other agenda issues of concern to Council members were the scheduling of open access discussions, the bycatch work plan, and the salmon amendment. Mr. Lockhart also spoke in support of the proposed Sunday presentation at the April meeting on groundfish specifications and impacts scheduled for 6:30 p.m. Council members then worked with the Executive Director and Council Chairman to set the April agenda.

### **C. Salmon Management**

#### **C.1 Mass Marking and Coded-Wire Tagging (03/06/06; 2:36 pm)**

##### **C.1.a Agenda Item Overview**

Mr. Chuck Tracy presented the agenda item overview.

##### **C.1.b Pacific Salmon Commission Report**

Dr. David Hankin, Humboldt State University (Chair) and Dr. Gary Morishima of the Pacific Salmon Commission Expert Panel on the Future of the Coded-Wire-Tag Recovery (CWT) Program for Pacific Salmon, provided a powerpoint presentation (on file and on the website).

Mr. Lockhart asked for some elaboration on the alternative management approaches. Dr. Hankin replied the use of double-index tagging (DIT) could provide some insight into the combined direct and indirect fishing mortality for stocks of interest, which would be of value from a conservation perspective, although not necessarily from a management perspective. Dr. Morishima noted the potential of management strategies that do not rely as heavily on the precision of CWT exploitation rate and preseason abundance forecasts could be developed, similar to that used for Oregon Coast Natural (OCN) coho, which uses parental escapement and marine survival to set management boundaries.

Mr. Melcher asked if the reference to DIT programs assumed currently designed DIT programs could be used, or if the reference supposed some other study design. Dr. Morishima replied the current programs would probably be adequate to detect differences between marked and unmarked populations for all fisheries combined, but inadequate for partitioning among various fisheries. The latter would require a better selection of tag index groups, as well as larger release groups and sample rates, which the Expert Panel is currently investigating.

Dr. McIsaac asked what the intent of the PSC was regarding the Expert Panel findings. Dr. Morishima replied the PSC wanted to ensure the issues identified were addressed and so established a small workgroup to develop possible solutions to four of the recommendations as presented in Agenda Item C.1.b, Supplemental PSC Report.

Ms. Vojkovich asked what the timeline for recommendations was and when the Council could expect an update. Dr. Morishima replied the initial report is due in August, 2006 with presentation to the PSC in October, 2006. He noted the PSC does not have authority to conduct the CWT program, but acts as an information clearing house, and makes recommendations to the agencies to address the issues.

Mr. Anderson asked how the relative magnitudes of mark selective fisheries were characterized, and if a certain exploitation rate on a particular stock could be used. Dr. Morishima said the Expert Panel discussion was limited to the creation of a tiered framework, with low level impacts such that statistically quantifying mark selective fishery effects would be difficult. But as mark selective fishery impacts increased in number and intensity, different assessment systems would be necessary. The PSC selective fisheries committee will flesh out the details of the framework and have recommendations by the end of 2006.

Dr. Peter Dygert summarized the letter to Chairman Hansen from Bob Lohn, Agenda Item C.1.a, Supplemental NMFS Report.

Dr. McIsaac asked if Chinook in California hatcheries are being mass marked in 2006. Dr. Dygert replied California hatcheries are lagging behind Oregon and Washington hatcheries in the process but was unsure about the status of 2006 marking programs.

Mr. David Bedford asked if NMFS also had recommendations for CWT tagging rates. Dr. Dygert replied the Expert Panel and Workgroup recommendations will be used as guidelines.

Mr. Melcher asked if the Federal legislation requiring mass-marking at all Federal and Federally funded hatcheries included California. Mr. Grover replied none of the California hatcheries are implementing mass-marking, although constant fractional tagging programs are being established in the Central Valley hatcheries. Mr. Roth noted the legislation is not restricted to Oregon and Washington.

#### **C.1.c Reports and Comments of Advisory Bodies**

Dr. Peter Lawson presented Agenda Item C.1.c, Supplemental SSC Report.

Mr. Butch Smith presented Agenda Item C.1.c, Supplemental SAS Report.

#### **C.1.d Public Comment**

Mr. Bruce Jim, Columbia River Tribes, Warm Springs, Oregon

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

#### **C.1.e Council Discussion**

Mr. Roth noted that USFWS provided comments to the Expert Panel and were interested in working with the panel and workgroup. The USFWS is actively engaged in mass marking fall Chinook. A template of the mass-marking timetable would be provided to the Council in the April briefing book that will identify USFWS plans.

Mr. Bedford observed the implementation of mass-marking programs is not systematic, and should be designed to address the dual goals of increasing harvest opportunity and controlling interaction of wild and hatchery fish in spawning areas.

Mr. Harp recommended the Council receive updates on the Expert Panel and Workgroup recommendations, and on mass-marking and CWT programs.

#### **C.2 Fort Bragg March 15, 2006 Commercial Fishery Opening (3/7/06; 1508)**

Mr. Melcher recommended delaying Agenda Item C.2 until after C.4 so the Council could see the effects of proposed 2006 management measures on Klamath River fall chinook (KRFC) escapement before recommending inseason action to close fisheries. The Council agreed.

### **C.2.a Agenda Item Overview (03/10/06; 1130)**

Mr. Tracy presented the agenda item overview.

### **C.2.b Agency and Tribal Recommendations**

Mr. George Kautsky provided Agenda Item C.2.b, Supplemental Comments of the Hoopa Valley Tribe. He noted the March and April Fort Bragg recreational fishery has no recorded Klamath River fall Chinook (KRFC) impacts, and therefore the Hoopa Valley Tribe did not recommend closing the fishery during that time.

Mr. Melcher asked if the Hoopa Valley Tribe was commenting on all Council area spring fisheries or just salmon fisheries. Mr. Kautsky responded only Council area salmon fisheries.

Ms. Desma Williams, Yurok Tribal fisheries supported no further impacts on KRFC in Council area salmon fisheries, particularly in the Fort Bragg area commercial fisheries since impact levels can not be estimated.

Ms. Vojkovich requested the commercial Fort Bragg fishery in March and April be removed from the modeling, with the expectation they will be closed. Based on NMFS letter the Point Arena to Point Sur recreational fishery should not open April 1, and the STT should model the options as such.

Mr. Melcher asked if Ms. Vojkovich was recommending inseason action to keep the Point Arena to Pigeon Point recreational fishery closed after the April Council meeting. Ms. Vojkovich responded yes.

### **C.2.c Reports and Comments of Advisory Bodies**

Mr. Tracy noted Agenda Item C.2.c, Supplemental STT report, was presented earlier in the week under Agenda Item C.4, and would not be repeated.

Mr. Don Stevens provided Agenda Item C.2.c, Supplemental SAS Report.

### **C.2.d Public Comment**

Mr. Mike Sorensen, Oregon Coastal Sport Fishing Association, Toledo, Oregon

### **C.2.e. Council Action: Consider Modifying Opening Date**

Mr. Melcher moved (Motion 22) to recommend inseason action to modify the opening date consistent with the options adopted under Agenda Item C.6, and close commercial troll salmon seasons from Cape Falcon to the OR/CA border March 15-April-30, 2006. Mr. Moore seconded the motion.

Mr. Melcher noted the intent of the action was to preserve KRFC impacts for future consideration of de minimis fisheries, which could provide benefits to communities later in the season.

Ms. Vojkovich offered a friendly amendment to include the commercial troll fishery in the area from Horse Mt. to Pt. Arena for March 15, 2006 to April 30, 2006.

Mr. Melcher and Mr. Moore accepted the friendly amendment; Motion 22 passed with Mr. Frank Lockhart abstaining.

Ms. Vojkovich moved (Motion 23) to adopt for 2006 salmon fisheries, inseason adjustments to modify the opening date for California recreational fisheries from the area between Point Arena to Point Sur, to not open before May 1, 2006. Mr. Moore seconded the motion; Motion 23 passed. Mr. Frank Lockhart abstained.

Mr. Lockhart noted Motions 22 and 23 appear to comply with the NMFS guidance letter, and stated he would report back to the Council with NMFS' response to the recommendations.

### **C.3 Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates**

#### **C.3.a Report of the Salmon Technical Team (03/07/06; 2 pm)**

Mr. Tracy presented the agenda item overview.

Mr. Dell Simmons, STT Chair, presented a summary of the Review of 2005 Ocean Salmon Fisheries. He noted the KRFC spawning escapement was below the 35,000 natural spawner floor, and the KRFC age-4 ocean harvest rate was above the 16.0% NMFS ESA consultation standard for California Coastal (CC) Chinook ESU.

Mr. Simmons summarized Preseason Report I: Stock Abundance Analysis of 2006 Ocean Salmon Fisheries. He noted KRFC abundance was predicted to be about one half of 2005 predicted abundance. Abundance was also down for most Columbia River Chinook stocks, including Spring Creek and Lower River Hatchery tules, which are drivers for north of Cape Falcon fisheries. The OPI coho index was down, but Columbia River hatchery stocks were similar to 2005. He noted the STT also listed several technical concerns in the document, of which the Council should be aware.

Mr. Harp asked if the STT had resolved its concern regarding estimation of Coweeman tule impacts in south of Cape Falcon fisheries. Mr. Simmons replied the STT has developed some new effort scalars for the Chinook FRAM, which will be in place for modeling the options.

Mr. Harp asked if the STT has developed new methods for estimating LCR coho impacts. Mr. Simmons replied that in past years OCN coho modeled impacts were used to estimate LCR coho impacts. In June 2005, LCR coho were listed as threatened under the Federal ESA, and the STT reexamined the use of OCN coho as an indicator stock for LCR coho. The states, tribes, and NMFS have discussed use of Columbia River hatchery coho as an indicator stock and believe some combination of early and late stocks would be appropriate. However, the final selection had not been made, but the STT would recommend something for use in modeling the options by the end of the week.

Mr. Melcher asked if the south of Cape Falcon Chinook FRAM effort scalar changes would inflate Snake River fall impacts. Mr. Simmons replied it may increase the actual level of impacts, but because the Consultation standard is a ratio, there will be no effect on compliance evaluation; the same increase would be applied to the base period impacts.

Dr. McIsaac asked what the overfishing situation was relative to the projection for KRFC to miss the 35,000 spawner conservation objective for the third consecutive year. Mr. Tracy replied the overfishing designation would not occur until a post season estimate confirmed spawning escapement was below 35,000.

Mr. Melcher asked if the STT had resolved its concerns with the KOHM underestimation of impacts. Mr. Simmons replied the STT was continuing to work on a solution to under predicting contact rates, which were outside the observed range in recent years. The STT is discussing a weighting system for recent years to compensate for the recent trend.

Mr. Ticehurst asked if the recent trend is due to ocean condition change or a statistical aberration. Mr. Simmons replied it is unlikely the variation is random.

### **C.3.b Agency and Tribal Comments**

Mr. Anderson noted unusual ocean conditions off the Washington coast have been observed for the past two summers, and an associated general decline in abundances. The north of Falcon area has seen a number of years with relatively healthy populations, but 2006 will present challenges due to both declines in overall abundance of key stocks and a new management approach for LCR coho. Harvest management will be scrutinized as recovery plans are being generated, and management of habitat, hydropower, and hatcheries are included in those plans.

Mr. Melcher recommended model adjustments by the STT are made in the first model runs, not at the last minute.

Ms. Vojkovich echoed Mr. Anderson's comments as they relate to the KRFC situation.

Ms. Desma Williams presented Agenda Item C.3.b, Supplemental Comments of the Yurok Tribe, March 2006.

### **C.3.c Reports and Comments of Advisory Bodies**

Dr. Pete Lawson presented Agenda Item C.3.c, Supplemental SSC Report.

Ms. Vojkovich asked if the issue of confidence limits had been discussed with the STT. Dr. Lawson replied sufficient information was available to generate confidence limits for some estimates, but additional work would be required. He noted any progress in that arena would be welcome.

Ms. Vojkovich asked if the confidence limits would facilitate developing recommendations of the SSC, or would it just be informational. Dr. Lawson replied the former and provided an example.

### **C.3.d Public Comment**

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon.

Mr. Harp asked if Mr. Boley was recommending a later date for the KRFC birth date. Mr. Boley replied the current date should be reviewed to ensure an unbiased and appropriate date is being used.

Mr. Anderson asked if the 2006 September fishery effort was greater than expected because of the closures in July and August. Mr. Boley replied yes, and that the STT proposed contact rate scaling would be better addressed through fishery management than model modification.

Mr. Bob Crouch, Klamath Coalition, Harbor, Oregon

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

### **C.3.e Council Discussion on Review of 2005 Fisheries and Summary of 2006 Stock Abundance Estimates**

None.

#### **C.4 Identification of Management Objectives and Preliminary Definition of 2006 Salmon Management Options (03/07/06; 3:40 pm)**

##### **C.4.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

##### **C.4.b Report of the Pacific Salmon Commission**

Mr. Harp presented Agenda Item C.4.b Supplemental Report from the Pacific Salmon Commission, March 2006.

Mr. Gordy Williams noted the Chinook interface group assigned the PSC's Chinook Technical Committee to review the sampling and other information used to assess the effects of changes to Northern British Columbia and West Coast Vancouver Island fisheries, as some of the preliminary reports were not accurate.

##### **C.4.c Report of the Klamath Fishery Management Council**

Mr. Melcher presented Agenda Item C.4.c, Supplemental KFMC Report.

Mr. Harp noted the KFMC had to meet and reach consensus without the benefit of the NMFS guidance letter for 2006 salmon fisheries.

Dr. McIsaac noted Option I reflects 2005 regulations, but the next to last paragraph states 2005 regulations would not be acceptable. Mr. Harp replied Option I was requested to provide an upper bound for management measure analysis, recognizing the KRFC spawning escapement in that option was unacceptable as a final endpoint.

Mr. Tracy asked if the Option III 50% tribal share was based on adult equivalents or a fish-for-fish sharing arrangement. Mr. Melcher replied the Klamath sharing arrangement in place is a fish-for-fish arrangement.

Dr. McIsaac asked how many of the 6,100 fish caught in fall 2005 ocean fisheries would have returned to the river to spawn in 2006. Mr. Simmons replied about half.

##### **C.4.d NMFS Recommendations**

Mr. Lockhart stated there was no official letter of guidance from the NMFS. Given increased scrutiny of the harvest sector by the administration, NMFS was not able to clear the letter in time for this meeting but was still working on it. Most of the contents of the letter are in prior documents such as the Salmon FMP, and Biological Opinions. There was a great deal of contention throughout NOAA Fisheries regarding the guidance letter. During the analysis by NOAA Fisheries, it was clear there was little flexibility in the FMP, and under such circumstances the Council is required to close salmon fisheries in its jurisdiction that impact KRFC. However, NOAA Fisheries did not want to preclude the Council process and would review any fishery proposals adopted by the Council. NOAA Fisheries acknowledged the importance of salmon fisheries to the participants and the communities, and would act quickly for requests for disaster declaration.

Dr. Dygert summarized the preliminary conclusions in the letter. The guidance letter includes comments about ESA listed stocks as well as KRFC. Much of the guidance is the same as in recent years; but with this exception:

*KRFC : The conservation objective for Klamath River fall Chinook (KRFC) requires a return of 33-34% of potential adult natural spawners, but no fewer than 35,000 naturally spawning adults, be achieved in any one year. The preseason forecast for KRFC for 2006 is close to a record low. Preseason Report I indicates that, if the ocean fishery is closed from January through August 2006 between Cape Falcon, Oregon and Pt. Sur, California (near Monterey) and the Klamath River fishery (tribal and recreational) is closed immediately and remained closed in 2006, the expected number of natural area adult spawners would be 29,200. Under the Salmon FMP, a "conservation alert" is triggered when a stock is projected to fall below its conservation objective. Under such circumstances the Council is required to close salmon fisheries within Council jurisdiction that impact the stock. KRFC are caught in commercial and recreational fisheries from Cape Falcon to Pt. Sur. The closed area would therefore include most of the Oregon coast and the northern half of California. Given the circumstances, any fishing in the closed area that may be proposed would have to be approved by emergency rule to modify the Salmon FMP.*

*Klamath River fall Chinook are also caught in freshwater recreational fisheries and tribal fisheries that are outside the Council's jurisdiction. Council fisheries are managed to achieve 50:50 tribal/non-tribal sharing of adult harvest with a portion of the non-tribal share taken by recreational fishing inriver. Late season ocean fisheries (September-November) catch immature KRFC, some of which would spawn in the following year. The result is that fish caught in the late season of 2005 contributed to the reduced escapement that will occur in 2006. Preseason Report I indicates that approximately 6,100 KRFC were caught late in 2005. Despite the fact that the forecast now available tells us that the run size is such that the escapement floor will not be met in 2006, some ocean catch has already occurred, and there will likely be expectations for additional harvest in freshwater fisheries.*

*The escapement of KRFC also fell below the 35,000 spawner escapement floor in 2004 and 2005. The FMP provides that an "overfishing concern" is triggered if postseason estimates indicate that a natural stock has failed to achieve its conservation objective in three consecutive years. The Council uses the overfishing concern to address the requirements of the MSA with respect to overfishing. If KRFC fail to meet the 35,000 fish escapement floor in 2006, as indicated by postseason estimates that will become available after the conclusion of the fall fisheries, an overfishing concern would be triggered, and the Council would be required to complete a formal review within one year and develop an associated rebuilding plan.*

*The status of KRFC is depressed relative to the conservation objectives defined in the Salmon FMP. Under the circumstances, the Plan requires closure of all salmon fisheries in the area from Cape Falcon to Pt. Sur through at least August 31, 2006. It is likely that the Council will receive proposals to provide some limited fishing opportunity. Fishing in the EEZ in excess of the provisions of the approved FMP would require adoption of an emergency rule. In its consideration of proposals for fisheries, the Council might develop information that is not apparent at this time. However, based on what is currently known, and given the clear provisions of the FMP, NOAA Fisheries concludes that it will be difficult to justify approval of an emergency rule to allow additional fishing in 2006.*

*Current regulations for the 2005-2006 season include openings for commercial and recreational fisheries off the Oregon and California coast that would begin March 15. These fisheries will add to the catch of KRFC that has already occurred and further reduce the escapement. There is already a place on the Council's agenda for consideration of the March openings. Any additional information that may become available related to the March openings will be considered at that time, but NOAA Fisheries currently expects that it will be necessary to close those fisheries by inseason action to comply with the FMP.*

*In addition, NOAA Fisheries will recommend to the California Fish and Game Commission that the recreational fishery in the Klamath River be closed in 2006. Council fisheries are managed to achieve 50:50 tribal/non-tribal sharing of the adult harvest of KRFC. Because non-tribal ocean fishery catches have already occurred, tribal fisheries, which occur later in the year, would be expected. NOAA Fisheries will work with the tribes to try to find an appropriate course of action to address the tribes' unique circumstance and the conservation concerns for KRFC.*

*During the preseason process, the Council will also be considering late season fisheries that would occur after August 31, 2006. NOAA Fisheries concludes that it would be imprudent to consider significant late season fisheries for 2006 at this time. Any late season fisheries that may be proposed should be scheduled to open after the September 2006 Council meeting and with the understanding that they would be reviewed and possibly closed by inseason action at that time.*

*NOAA Fisheries acknowledges and understands the significant consequences these fishery closures will have on fishermen and their families, the businesses that rely on them, and the communities in which they live. Given the circumstances, NOAA Fisheries has begun the process of gathering data and analyzing appropriate next steps to mitigate impacts on the industry.*

*California Coastal (CC) Chinook salmon is listed under the ESA. The 2000 biological opinion on CC Chinook identified KRFC as the best available surrogate for estimating and limiting ocean harvest impacts on CC Chinook populations. That biological opinion required that the projected age-4 ocean harvest rate for KRFC not exceed 17.0%. In 2002, the Salmon Technical Team adopted new procedures for calculating the age-4 harvest rate on KRFC. Consistent with the revised definition of age-4 harvest rate, management measures developed under the Salmon FMP must achieve a projected age-4 ocean harvest rate on KRFC no greater than 16%.*

*In 2003 and 2004 the projected age-4 ocean harvest rates on KRFC were 16% and 15%, respectively. However, the postseason estimates, derived from cohort reconstructions, were 23% and 51%, respectively. As a result of the harvest rates observed in the 2003 and 2004 seasons, NOAA Fisheries reinitiated consultation prior to the 2005 seasons to consider whether modifications to the RPA of the 2000 opinion were necessary (McInnis 2005). The consultation, which is ongoing, clarified that under the terms of the 2000 biological opinion, NOAA Fisheries expects postseason estimates of the KRFC harvest rate to deviate both above and below preseason projections since the Klamath Ocean Harvest Model (KOHM) is designed to be an unbiased model. However, the magnitude of the deviations in 2003 and especially 2004, were of great concern, both with respect to the management of KRFC harvest and spawning escapement, as well as ensuring protection of ESA-listed CC Chinook.*

*NOAA Fisheries identified two possible explanations for the under-prediction of the 2004 KRFC harvest rate: 1) chronic changes in the distribution and/or vulnerability of KRFC, or 2) an unusual event consistent with the inter-annual variability of these estimates. The determination of which of the two may be the predominant factor in under-prediction of the harvest rate requires additional years of data.*

*The consultation reinitiated in 2005 did not result in a change of the 2005 preseason maximum allowable harvest rate of 16% established to protect CC Chinook. Because the harvest rate in 2005 again exceeded 16% by a substantial amount, there is continued concern about its under-prediction by the KOHM. NOAA Fisheries anticipates that the STT will make a modified model*

*available for analysis of 2006 seasons which may weigh catch and effort data from the last three years more heavily. The intent of any such model modifications would be to improve the accuracy of the KOHM with respect to harvest rate prediction; it would not be to introduce bias within the KOHM for the purpose of providing some greater probability that target harvest rates are not exceeded. Such a modification was developed for analysis of the proposed 2005 season options. The Council's recommended seasons yielded an age-4 harvest rate of 7.7% under the unmodified KOHM and 13% under the modified (3-year base) model. The preliminary postseason estimate of the harvest rate in 2005 is 24%, nearly twice the rate predicted by the modified model and three times the rate of the unmodified model.*

*The Council may decide to recommend the suspension of the KRFC spawning escapement goal through the use of an emergency rule in order to allow some additional limited harvest of KRFC. In evaluating such a recommendation, NOAA Fisheries will consider the risks to the long term productivity of the KRFC resource, while ensuring that management measures comply with NOAA Fisheries' ESA consultation standard for CC Chinook. Even if an emergency rule were approved, the combination of 1) the harvest which has already occurred since September 1, 2005, 2) the anticipated modifications in the KOHM, and 3) the ESA limit of a preseason projected 16% harvest rate, will leave little, if any, additional harvest available under an emergency rule. Preliminary analysis of coded wire tag recoveries from fisheries which occurred after August 31, 2005, indicate an age-4 harvest rate of 6.7%. It should be emphasized that this is a preliminary estimate based on incomplete cohort data and the forecast ocean abundance and is expected to change when the cohort is completed and the postseason estimate of abundance becomes available. For example, the preliminary estimate of the 2004 fall fisheries was 3.2% while the postseason estimate increased to 8.7%. In addition, any harvest occurring in 2006, either prior to May 1, or under an emergency rule after May 1, would be evaluated with a modified KOHM, which could generate substantially higher estimates of harvest rate than the KOHM versions used in prior seasons.*

*As discussed above, absent an approved emergency rule, the area from Falcon to Pt. Sur will be closed to salmon fishing because of conservation concerns for KRFC. However, in the event that new and compelling information is developed during the course of the 2006 preseason process, which supports implementation of an emergency rule and additional harvest, NOAA Fisheries, for the purpose of providing adequate protection for CC Chinook, will consider reducing the 16% age-4 KRFC harvest rate limit for the 2006 seasons. The rate associated with the 2006 harvest will be estimated using a KOHM which the STT believes most accurately predicts harvest rate for the 2006 season.*

Ms. Vojkovich asked if all five criteria in the Agenda Item C.4.a, Attachment 2 would have to be met for consideration of an emergency rule. Mr. Tracy noted the bottom paragraph references all applicable criteria.

Ms. Vojkovich asked for a definition of long term yield used for criterion 5. Dr. Dygert replied the MSA requires management for maximum sustainable yield, and interprets the criterion as ensuring the stock is not depleted to a level that would compromise the ability to return the stock to that level.

Ms. Cooney noted the criteria are from the COPs, not a part of the FMP.

Ms. Vojkovich asked if under an emergency rule the FMP was set aside and allocation rules were wide open. Ms. Cooney replied the emergency rule amends a portion of the FMP for the time period the emergency rule is in place, but that underlying MSA requirements are still in place.

Chairman Hansen asked if the difficulty approving an emergency rule for KRFC reflected a more restrictive management process than for fish listed under the ESA. Dr. Dygert replied probably so in this case because the Salmon FMP was very specific on the issue of projected escapement below a conservation objective, and does not provide a lot of flexibility, except through the emergency rule procedure.

Ms. Cooney noted allocation provisions in the FMP could be changed through an emergency rule, but not provisions in other laws, such as tribal/non-tribal sharing.

Dr. McIsaac asked if the difficulty in approving an emergency rule was related to demonstrating benefits as was referenced in Agenda Item C.4.a, Supplemental Attachment 4. Dr. Dygert replied the difficulty was for the agency to meet all the criteria listed in Agenda Item C.4.a, Attachment 2.

Dr. McIsaac asked if approval of an emergency rule was contingent upon a Council pursuing an FMP amendment as referenced in the MSA, reproduced in Agenda Item C.4.a, Supplemental Attachment 4. Ms. Cooney replied the MSA requirement was for approval of an 180 day extension of an existing emergency rule.

Mr. Anderson asked if an analysis had already been conducted which led to the conclusion that an emergency rule to allow fishing could not be justified, rather than waiting for an option to be developed and then conducting an analysis. Dr. Dygert replied NMFS was struggling with the idea of a pre-supposed outcome. NMFS supports going through the public process to develop options, but wanted to convey the strong possibility of not approving an emergency rule. From NMFS' perspective, at least one option should reflect the terms of the Salmon FMP, which requires closure of fisheries to address KRFC concerns.

Mr. Lockhart stated NMFS is willing to consider any options the Council adopts.

Mr. Anderson noted the use of emergency rules had become more restrictive since Mr. Robinson made his comments in 1998, as noted in Agenda Item C.4.a, Supplemental Attachment 4.

Dr. Dygert then spoke about NMFS guidance on LCR Chinook:

The LCR Chinook ESU is comprised of a spring component, a far north-migrating bright component, and a component of north-migrating tules. The three remaining spring stocks within the ESU include those on the Cowlitz, Kalama, and Lewis rivers. The historic habitat for these spring Chinook stocks is now largely inaccessible due to impassable dams. Although some spring Chinook spawn naturally in each of these rivers, they are presumed to be largely hatchery-origin fish with little resulting natural production. The remaining spring stocks are therefore dependent, for the time being, on the associated hatchery production programs. The Lower Columbia Salmon Recovery Plan specifies actions to be taken to facilitate recovery of spring Chinook populations. The Cowlitz and Lewis hatcheries will be used, for example, for reintroduction into upper basin areas above existing dams. Maintaining the hatchery brood stock is therefore essential for implementation of specified recovery actions. The hatcheries have met their escapement objectives in recent years, and are expected to do so again in 2006, thus ensuring that what remains of the genetic legacy is preserved and can be used to advance recovery. NOAA Fisheries expects that the management agencies will continue to manage inriver fisheries to meet hatchery escapement goals, but no additional management constraints in Council fisheries are considered necessary.

Three natural-origin bright populations have been identified in the LCR Chinook ESU. The North Lewis River stock is used as a harvest indicator for ocean and in-river fisheries. The escapement goal used for management purposes for the North Lewis River population is 5,700, based on estimates of maximum

sustained yield. Actual escapements have exceeded the goal in every year but one since 1980. Escapements over the last five years have averaged 12,500, and thus continue to be well above the escapement goal. Given the long history of healthy returns, NOAA Fisheries Service does not anticipate the need to take specific management actions in the ocean to protect the bright component of the LCR Chinook ESU in 2006. NOAA Fisheries does expect that the states of Washington and Oregon will continue to take appropriate actions through their usual authorities, to ensure that the escapement goal continues to be met.

Unlike the spring populations or the bright component of the ESU, LCR tule populations are caught in large numbers in Council fisheries. There are three naturally producing populations of tule Chinook in the lower Columbia River (Coweeman, East Fork Lewis, and Sandy) that are not substantially influenced by hatchery strays. Apart from these populations, the system is dominated by hatchery production and whatever natural spawning does occur is heavily influenced by hatchery strays. The Lower Columbia Salmon Recovery Plan specifies actions to be taken to address the adverse consequences of hatchery production on the LCR ESU.

For the last several years the Coweeman population has been used as an indicator stock for managing the tule component of the LCR Chinook ESU. Consistent with our guidance from recent years, NOAA Fisheries expects that the 2006 Council fisheries to be managed such that the total exploitation rate on Coweeman fall Chinook from all fisheries does not exceed 49%. Preseason estimates of the exploitation rate have consistently complied with the 49% standard. However, information suggests that the actual exploitation rates on Coweeman fall Chinook have been substantially higher in recent years. The Northwest Fisheries Science Center recently completed a review that assessed compliance of Council fisheries with ESA related consultation standards (Kope 2005). (A copy of that report was forwarded to the Council by letter on December 21, 2005.) Results from the report indicate that Council fisheries have complied with most of the stock-specific standards. However, the report indicates, based on a postseason review, that the exploitation rates for the most recently available brood years (1998-2000) ranged from 53%-68% and averaged 60%.

NMFS was aware that managers from the state agencies and Salmon Technical Team have been reviewing the analysis. From that review we expect to confirm or modify the results of the analysis as appropriate, and learn more about why postseason estimates of exploitation rates have been higher than preseason projections. NOAA Fisheries' objective is to insure that we are using the best available information for managing the fisheries to meet specified conservation objectives in 2006. We will therefore rely on the Salmon Technical Team to report back regarding their review of the Science Center report, and make recommendations for actions necessary to address their findings.

NOAA Fisheries has relied on the 49% standard since 2002. The Lower Columbia Salmon Recovery Plan recommends that the standard be reviewed, and we concur that after five years a review is warranted. The Recovery Plan specifies that the review should include consideration of the exploitation rate standard and associated affects on other LCR tule populations. The Plan also calls for consideration of alternative management strategies including one based on indicators of annual abundance and productivity. NOAA Fisheries intends to work with the interested management entities and undertake such a review prior to 2007 fisheries.

Mr. Anderson noted some of the estimations in FRAM for the area south of Cape Falcon were underestimated, and the STT was working on corrections. He asked Dr. Dygert to confirm his remarks were not a prescription of how to make model adjustments, but only what adjustments were to be made. Dr. Dygert confirmed that was the case.

Dr. Dygert then addressed NMFS guidance for LCR coho:

Lower Columbia River coho were listed as threatened under the ESA on June 28, 2005. In 2005 NOAA Fisheries issued a section 7 conference opinion regarding the effects of Council area fisheries on LCR coho, but 2006 will be the first year that NOAA Fisheries is providing consultation standards as part of our ESA guidance for the preseason planning process. NOAA Fisheries expects to complete a section 7 consultation regarding the effects of Council fisheries on LCR coho prior to the start of the 2006 season.

LCR coho are also caught in the Columbia River, primarily in state managed commercial and recreational fisheries in areas below Bonneville Dam. These fisheries are managed subject to the terms of the 2005-2007 Interim Management Agreement between the U.S. v. Oregon parties. NOAA Fisheries will also consult on inriver fisheries through a supplement to the existing opinion on the Interim Agreement. Because of the close association between Council fisheries and fisheries that take place in the Lower Columbia River, NOAA Fisheries plans to consider both actions in a single opinion.

NOAA Fisheries reviewed information related to the status of LCR coho and the effects of fisheries on LCR coho through our section 7 conference in 2005, and again in preparation for consultation on fisheries in 2006. Because of the location of fisheries affecting LCR coho, the states of Oregon and Washington are the management entities most affected. NOAA Fisheries wrote letters to the states on August 29, 2005 and again on January 18, 2006 highlighting several areas of concern related to the management of LCR coho. NOAA Fisheries has also talked with representatives of the states on several occasions since then about these concerns. The concerns can be summarized under two broad themes. First, what is the appropriate long-term harvest strategy for managing LCR coho, and second, once a harvest rate limit is selected for a particular year, how do we measure impacts in ocean and inriver fisheries relative to the specified limit?

Efforts are underway to address some of the issues that have been discussed. For example, the state of Washington has indicated, in its Lower Columbia Salmon Recovery Plan, its intention to review the harvest rate matrix that has been used for the past several years to manage LCR coho harvest, and to consider development of alternative management strategies if appropriate for Washington coho. The State of Oregon will do the same as part of its five-year review of the State of Oregon's management plan for LCR coho. The two states are encouraged to work together on this review to develop a common management strategy. NOAA Fisheries expects that some progress will be made on issues of concern prior to the 2006 season, but that much of the necessary review will not be completed until later this year, and therefore be available in time for consideration for the 2007 fisheries.

Nonetheless, the uncertainties surrounding appropriate harvest strategies and allowable levels are such that it is prudent to take a conservative approach to management until they can be resolved. Therefore, NOAA Fisheries expects that ocean salmon fisheries under the Council's jurisdiction in 2006, and commercial and recreational salmon fisheries in the mainstem Columbia River, including select area fisheries (e.g., Youngs Bay), shall be managed subject to an exploitation rate limit on LCR coho of 15%. We are aware that the Salmon Technical Team is reviewing methods for assessing harvest impacts on LCR coho in ocean fisheries. NOAA Fisheries will rely on the Team's recommendations regarding best methods for doing the necessary assessment. NOAA Fisheries understands that the effected managers will make a decision regarding the allocation of harvest impacts between ocean and inriver fisheries that will result in a specified harvest rate limit for the river (e.g., 5%). In managing inriver fisheries, the specified harvest rate limit will apply to each of the early and late return timing components of the LCR coho ESU which will be managed separately in the mainstem Columbia based on run timing differences.

Mr. Melcher asked if the 15% harvest rate limit applies to the aggregate or the individual components. Dr. Dygert replied it applies to the early and late components as they are known.

Mr. Melcher asked if a separate harvest rate for early and late stock would be used for ocean management such that inriver fisheries could target the remaining allowable harvest on each of the components.

Dr. Dygert replied ocean management was in transition from using OCN as an indicator stock to Columbia River stocks, and the STT recommendations for use of a one stock vs. two stock model will be the basis for the decision.

Mr. Anderson asked if that response was a qualified yes to Mr. Melcher's question. Dr. Dygert replied it was.

Dr. Dygert noted the 2006 standard will be reviewed for 2007 and beyond.

Mr. Lockhart stated that all of Dr. Dygert's presentation was preliminary.

#### **C.4.e Tribal Recommendations**

Mr. George Kautsky presented Agendum C.4.e, Supplemental Comments of Hoopa Valley Tribe.

Ms. Desma Williams provided comments on behalf of the Yurok Tribe. She stated the Yurok Tribe did not want to see any additional ocean fisheries on KRFC, but if the Council did proceed, to make adjustments to the KOHM to ensure accurate assessment of impact.

Mr. Bruce Jim (along with Mr. Stuart Ellis) presented Agenda Item C.4.e, Tribal Recommendations.

Mr. Harp provided testimony under Agenda Item C.4.e, Tribal Recommendations, March 2006.

Mr. Anderson provided Agenda Item C.4.e.f, Supplemental WDFW/Tribal Recommendations.

Mr. Harp asked if there was also agreement with the coastal tribes on management objectives for coastal stocks. Mr. Anderson replied there was agreement.

#### **C.4.f State Recommendations**

Mr. Anderson said they would be working with tribes and constituents to develop a set of management alternatives to meet the conservation objectives and would defer specific recommendations subsequent to SAS report and public testimony.

Mr. Melcher noted ODFW remains committed to the U.S. v. Oregon agreement to provide at least 50% of the coho destined for areas upstream from Bonneville Dam to that area. He also stated his support for the public process for consideration of emergency rule implementation of 2006 management measures.

Ms. Vojkovich noted California is interested in an option with minimal KRFC impacts.

#### **C.4.g Reports and Comments of Advisory Bodies (03/08/06; 8:10 am)**

Mr. Dell Simmons presented Agenda Item C.2.c, Supplemental STT Report.

Mr. Lockhart asked if effort shifted into areas with no observed impacts but with historically small fisheries would result in KRFC impacts. Mr. Simmons replied the KOHM would predict no impacts, but the STT believes there would be some KRFC tags recovered given sufficient sample size.

Mr. Melcher asked if the STT summary included changes to the KOHM the STT was contemplating to correct for previous years' underestimation of KRFC impacts, or any assumptions about impacts of the Fort Bragg commercial fishery in March, which has no historical record. Mr. Simmons replied the STT had made no changes to the KOHM, and no assumptions about the March impacts in the Fort Bragg commercial fishery were made.

Mr. Melcher asked if the KOHM underestimation in previous years would be addressed on a time/area cell by cell basis or as a blanket correction. Mr. Mohr replied the KOHM predictions of recreational impacts were, in general, performing adequately, but the STT would review all model components.

Dr. McIsaac asked why the STT statement concluded fishing in areas with no observed impacts in March 2006 would result in increased impacts on KRFC. Mr. Simmons replied the statement referred to fisheries adjacent in time and area to cells with observed impacts. Those fisheries had no observed impacts, but the STT believes it is likely the actual impacts were not zero.

Mr. Tracy asked if the STT would model impacts for the March Fort Bragg commercial fishery using an adjacent time, area, or fishery sector cell, similar to what was done when the Oregon commercial fisheries first expanded into March. Mr. Simmons replied the STT used an adjacent month for the Oregon fishery situation, and would probably do the same for Fort Bragg, which would result in modeled impacts for that cell greater than zero.

Mr. Lockhart asked if there were situations where previously closed areas were opened, and if so what were the results. Mr. Simmons replied there was a situation in Coos Bay, Oregon, where a commercial fishery was opened in March after only a small previous opening, and effort expanded greatly, although he would not know what the KRFC impacts were without further review.

Mr. Roth asked if the catch in the Fort Bragg recreational fishery during February and March was of sufficient magnitude that tag recoveries would be expected. Mr. Simmons replied the catches were very small and if the catch increased dramatically, the chances of recovering a KRFC tag would increase.

Messrs. Butch Smith, Steve Watrous, Jim Olson, Mike Sorensen, Jim Welter, Craig Stone, Duncan MacLean, and Don Stevens, presented Agenda Item C.4.g, Supplemental SAS Report. Corrections to the document were noted as follows with underlines:

Table 2, page 9, Supplemental Management Information 4: Option I - Buoy 10 catch estimates of 5,500 in August and 2,200 in September; Option II – Buoy 10 catch estimates of 6,000 in August and 2,300 in September. Option III – Buoy 10 catch estimates of 6,400 in August and 3,500 in September.

Table 2, page 9, Neah Bay Subarea: Option I – closes September 2, and no chum retention August 1 through September 2; Option III – closes September 16, and no chum retention August 1 through September 16.

Table 2, page 10, La Push Subarea: Option I – closes September 2, and late fishery opens September 23 through October 8; Option II – late fishery opens September 23 through October 8; Option III – closes September 16, and late fishery opens September 23 through October 8.

Table, 2, page 12, Cape Falcon to Humbug Mt.: Option I and Option II –all salmon except coho seasons reopen the earlier of September 1 or attainment of the coho quota; Option III –Open seven days per week, coho only...

Table 1, Page 6, Minimum Size: Cape Falcon to OR/CA border Prior to April 16, 2006 and Beginning March 15, 2007 - 28.0 Total Length, 21.5 Head-off

Table 1, Page 4, California KMZ Options I, II, and III – Closed.

Table 1, Page 5, Fort Bragg Option III – Closed.

Mr. Melcher asked if the language allowing inseason action to open seven days per week in the recreational fisheries north of Cape Falcon was included in the boilerplate. Mr. Watrous replied yes (under C.5, Page 16)

Mr. Melcher asked if the landing language at the bottom of page 1 was verbatim from 2005. Mr. Tracy noted there was one subtle change in the third sentence where the second “and” was inserted at the request of WDFW to ensure fish were not landed outside the area.

Mr. Warrens asked if the August 1 closure between Cape Falcon and Tillamook Head was discussed in the SAS. Mr. Watrous replied there was no discussion. Mr. Tracy noted Option III did include a July 15 closure date.

Mr. Ticehurst asked how the 50%:50% California:Oregon share was calculated. Mr. MacLean replied the ratio was recommended by the KFMC, and involves sharing of KRFC impacts between commercial fisheries in California and Oregon. The current Option I proposal appears to be more in favor of Oregon, but can be shaped throughout the rest of the week.

#### **C.4.h Public Comment**

Testimony on 03/07/06; 5:39 pm:

Mr. Marc M. Gorelnik, Coastside Fishing Club, San Francisco, California

Mr. Matthew O’Donnell, troller, Cape Junction, Oregon

Mr. Richard Hagel, troller, Astoria, Oregon

Mr. Alan Loretz, troller, Eureka, California

Mr. Jim Anderson, California Salmon Council, Redwood City, California

Testimony on 03/08/06;

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

Mr. David Yarger, Fishermen’s Marketing Association, Bodega Bay, California

Ms. Barbara Emley, PCFFA, San Francisco, California

Mr. Chad Dahlberg, troller,

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon

Mr. Darius Peake, Oregon Salmon Commission, Garibaldi, Oregon

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Daniel Platt, PCFFA, Fort Bragg, California

Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, California

Mr. Gerald Reinholdt, Reinholdt Fisheries, St. Helens, Oregon

Mr. Ralph Brown, Curry County, Coos Bay, Oregon

Mr. William Smith, F/V Riptide, San Francisco, California

Mr. Bill Forkner, commercial salmon fisherman, Fort Bragg, California

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, California

Mr. Dan Wolford, Coastside Fishing Club,

#### **C.4.i Council Recommendations for Initial Options for STT Collation and Description (03/08/06; 11:21 am)**

Utilizing Agenda Item C.4.g, Supplemental SAS Report:

Mr. Anderson recommended discussion of a range of alternatives that included coho quotas as low as about 50% of 2005.

Mr. Melcher directed the STT to make the following changes to Agenda Item C.4.g, Supplemental SAS report:

Table 1, Page 3, Cape Falcon to Florence South Jetty and Florence South Jetty to Humbug Mt. – strike Option I and replace with Option II; replace Option II with Option III and add landing and possession limits as described in Agenda Item C.4.c, Supplemental KFMC Report. Option III would be closed.

Table 1, Page 4, Humbug Mt. to OR/CA border – strike Option I and replace with Option II and change September quota to 2,000; replace Option II with Option III and close March and April 2006 fisheries to be consistent with areas north of Humbug Mt. Option III would be closed.

Table 2, Page 12, Cape Falcon to Humbug Mt. - Option III coho only fishery with a quota of 20,000.

Table 2, Page 13, Humbug Mt. to Horse Mt. - strike Option I and replace with Option II; replace Option II with Option III; Option III would be closed to a Chinook directed fishery.

Mr. Tracy asked if the KMZ area recreational fishery Option II would include a mark selective coho fishery on July 4. Mr. Melcher replied there would be no coho opportunity on that date under Option II.

Mr. Tracy asked if specific management zones were to be designated in the Cape Falcon to Humbug Mt. commercial fishery to correspond with the KFMC landing limits and if fishers were to be prohibited from fishing in different zones within the same open period. Mr. Melcher replied yes on both issues, and requested the STT work on the issues with enforcement personnel.

Ms. Vojkovich supported the KFMC recommendations for a range of options. She recommended abiding by the FMP and including one option with no KRFC impact option for areas between Cape Falcon and Point Sur for the purposes of analysis. She noted the California Fish and Game Commission has requested a range of Klamath River recreational allocations of 10% to 20%, but did not want to include that range in the current analysis, but as part of the analysis at the end of the week.

Ms. Vojkovich directed the STT to make the following changes to Agenda Item C.4.g, Supplemental SAS report:

Table 1, Pages 4 and 5, Oregon/California border to U.S./Mexico border: – Option I would reflect 2005 season structure; Option III would be closed. Option II would be developed through SAS and STT cooperation to result in structure with KRFC impacts at 50% of 2005 KRFC impacts.

Table 2, Page 13 and 14, Horse Mt. to U.S./Mexico border: – Option I would reflect 2005 season structure; Option III would be no KRFC impacts. Option II would be developed through SAS and STT cooperation to result in structure with KRFC impacts at 50% of 2005 KRFC impacts.

Mr. Ticehurst asked when the appropriate time to ask for an emergency action would be. Dr. McIsaac replied the Council Operating Procedures (COPs) require a description and justification of any emergency rule be included in the options adopted for public review, which would occur at the end of the week. Ms. Cooney noted any fishing between Cape Falcon and Pt. Sur would require an emergency rule and would need to be justified with some recommendation for the emergency rule.

Mr. Anderson asked if the California Option II 50% impact reduction from 2005 level was based on 2005 actual or preseason projected impacts. Ms. Vojkovich clarified that Option II should be 50% of Option I impacts, which utilizes 2005 season structure, but is not expected to have the same impacts as 2005 because stock abundances are different.

Mr. Anderson recommended the emergency rule criteria be addressed briefly at this time. He noted the first criterion was an unanticipated situation, and that the *C. Shasta* infestation was unanticipated. The change in frequency of emergency rule use, based on the comments of Mr. Robinson in Agenda Item C.4.a, Supplemental Attachment 4, was also unanticipated. The Council should consider if there are other unanticipated factors to bring to the record on Friday. The second criterion is that waiting for an amendment would have adverse economic and biological consequences; which appears to be the case based on testimony to date. An analysis of those factors would help quantify those consequences. The third criterion is allocation issues in the proposed emergency rule are supported by user representatives. He feels there are no allocation agreements in the FMP that would be affected by the proposed emergency rule, and is therefore not an applicable criterion. The fourth criterion is the action is necessary to meet FMP objectives. Objective 3 in Section 5.1 of the Salmon FMP would not be achieved in the absence of an emergency rule. The fifth criterion requires long term yield from the stock complex not be decreased. He recommended the STT conduct that analysis in light of Agenda Item C.4.a, Supplemental Attachment 3, which indicates strong recruitment for numerous spawning escapements that were well below the 35,000 floor.

Ms. Vojkovich concurred with Mr. Anderson's comments, although in regard to criterion, noted it may be necessary to consider fishing opportunities for only one group or one state in 2006. Users may be asked to contemplate a choice between nobody fishing or only one group fishing.

Mr. Ticehurst stated the emergency action should note the Klamath Basin river conditions are different than contemplated when the FMP was adopted.

Mr. Lockhart requested the Cape Falcon to Humbug Mt. recreational fishery include a no fishery impact option. Mr. Melcher modified his direction for that fishery and recommended the STT model Option III as closed in that area beginning May 1, and model Option II with a 20,000 coho quota.

Mr. Melcher noted criterion 3 refers to allocation issues addressed specifically in the FMP. With regard to KRFC, none are specific in the FMP, but are negotiated annually, usually through the KFMC. The Council can deviate from those recommendations without an emergency rule or amendment.

Mr. Melcher noted 2006 was different from previous years in regards to following the requirements of the FMP, in that the Council cannot manage the fisheries and achieve the 35,000 spawning objective.

Dr. McIsaac asked for clarification on the California recreational season structures. Ms. Vojkovich replied that for all California recreational fisheries, Option I would be 2005 season structure; Option II would be no more than 50% of Option I KRFC impacts, and Option III would be no additional KRFC impacts.

Mr. Melcher clarified his direction for the recreational KMZ fishery was that Option I would be 2005 regulations, Option II would be three days of fishing, and Option III would be closed.

Ms. Vojkovich recommended the entire recreational Oregon and California KMZ fishery in Option II be modeled with no more than 50% of Option I KRFC impacts because there may be insufficient resolution between three days of fishing and no fishing. Mr. Melcher concurred with Ms. Vojkovich's recommendation.

Mr. Ticehurst noted there was a distinction between no fishing and no impacts. Ms. Vojkovich replied the appropriate term is the Federal definition of the FMP guidelines – no salmon fishing that impact the stock.

Mr. Ortmann asked for Council consensus on Oregon and California recommendations. The Council agreed.

Mr. Anderson recommended north of Cape Falcon fisheries be modeled as presented in Agenda Item C.4.g, supplemental SAS report, as corrected on the floor by the SAS.

Mr. Tracy asked if the Pigeon Point to U.S./Mexico border recreational fishery cell should be divided into two cells at Point Sur to facilitate modeling KRFC impacts, which were negligible below Point Sur. Ms. Vojkovich replied the results of the SAS and STT discussions should include that clarification.

Mr. Harp recommended the treaty Indian options be modeled as presented in Agenda Item C.4.e, Tribal Recommendations, March 2006 and in Agenda Item C.4.g, Table 1, Page 1, Supplemental Management Information 3. He noted the tribal fisheries were shaped to address concerns with Interior Fraser and LCR coho, LCR natural tules, and Snake River fall Chinook.

## **C.5 Council Recommendations for 2006 Management Option Analysis (03/08/06; 6:07 pm)**

### **C.5.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

### **C.5.b Report of the STT**

Mr. Simmons, presented Agenda Item C.5.b, Supplemental STT Report. He noted the KOHM has a submodel to account for effort shift in California commercial fisheries, which may result in a different rate of decrease in KRFC impacts than in days open. He asked what assumptions the STT should model for March and April, 2006, fisheries.

Ms. Vojkovich replied the STT should assume the fisheries would continue as scheduled. She noted the 50% reduction was intended to model Option I first then work with the SAS to reduce KRFC impacts by half, not necessarily days open.

Mr. Simmons noted the California:Oregon, 50%:50% sharing would not be met with Option II.

### **C.5.c Report of the KFMC**

None.

### **C.5.d Reports and Comments of Advisory Bodies**

None.

### **C.5.e Public Comment**

None.

### **C.5.f Council Direction to the STT and Salmon Advisory Subpanel (SAS) on Options Development and Analysis**

As recommended by Ms. Vojkovich.

## **C.6 Council Direction for 2006 Management Options (If Necessary) (03/10/06; 8:13 am)**

### **C.6.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

### **C.6.b Report of the STT**

Messrs. Simmons and Grover presented Agenda Item C.6.b, Supplemental STT Report. Mr. Simmons noted the Oregon portion of the Chinook FRAM for Option II in Table 5 was not done correctly, which affected Coweeman natural tule and Snake River wild fall Chinook impact estimates. Canadian and Alaskan fisheries were modeled with 2005 scalars, which would probably slightly inflate impacts relative to what was expected for 2006. The KRFC spawning escapement predictions for Option I was 300; for Option II was 9,700; and for Option III was 12,600, which included only ongoing fisheries through April 30, 2006. The KRFC age 4 ocean harvest rate estimates were 32.6%, 22.1% and 24.7% for Options I, II, and III, respectively, compared to a standard of no more than 16.0%. The LCR natural coho exploitation rates were 14.0%, 10.0%, and 5.8% for Options I, II, and III, respectively, compared to a standard of no more than 15.0% for combined Council area marine and mainstem Columbia River fisheries. All options technically meet the standard, but Option I would probably not meet ocean/inriver sharing needs.

Dr. McIsaac asked if the modifications to the KOHM to account for under predictions of impacts in past years accounted for the extremely low spawner escapement values, and if there would continue to be refinements of the KOHM. Mr. Grover replied the KOHM has not been changed, but some parameters used by the model were modified to reduce bias in estimates of effort in Oregon commercial fisheries and contact rate per effort in California commercial fisheries. No additional changes were contemplated.

Dr. McIsaac asked how harvest rates of 99%, which have not been seen in any fishery ever, could be explained. Mr. Grover replied the spawner reduction rate, not the exploitation rate was 99%. The exploitation rate was near 26%.

Mr. Melcher asked for an explanation of the dynamics of the KOHM all-stocks predictor because it appeared estimated catch was inflated for March and April Oregon commercial fisheries but not for May fisheries. If quotas were used to dampen the catch in some fisheries, the all-stocks predictor would have to be used. Mr. Grover replied the STT would verify the performance of the all-stocks predictor prior to the April meeting.

Mr. Melcher asked if the Chinook FRAM modifications Mr. Simmons referred to in Agenda Item C.3.a were not expected to affect the Snake River Fall Index (SRFI) calculation, why were fisheries that were smaller than in 2005 resulting in larger SRFI values? Mr. Simmons replied his assumptions expressed in Agenda Item C.3.a were incorrect. When the STT examined the data it was clear that making a scalar correction prior to 1995 was not appropriate, and since the SRFI base period was 1988-1993, the scalar adjustment to the SRFI was not applied to both the numerator and denominator.

Mr. Melcher asked if the correction of the bias in the Coweeman tule fall Chinook index resulted in introduction of a bias in the SRFI. Mr. Simmons replied the Coweeman tule index was based on much better information than the SRFI. The impetus for the analysis was originally an appearance that the SRFI was too low in the Oregon cell. The initial results of the ad hoc analysis of the SRFI was not too low, and the authors of that analysis were beginning to question that conclusion.

Mr. Melcher asked if the STT could model the effects of landing limits using the KOHM. Mr. Simmons replied no.

Mr. Melcher asked if there was an attempt to estimate the effects outside the KOHM. Mr. Simmons replied it was discussed within the STT, but the STT did not recommend any estimation outside the models. Although landing limits could reduce catch and contact rates, they would only do so if they were low enough.

Mr. Melcher asked if the Coho FRAM still had the 2005 scalars for northern fisheries, and if it was possible when the 2006 expectations were produced, the estimates for Interior Fraser coho impacts could be greater than the 10.0% limit. Mr. Simmons replied yes.

Mr. Ticehurst asked how with a start of 29,200 KRFC spawners estimated in Preseason Report I, did Option III result in 12,600. Mr. Grover replied it is the result of correcting the effort and contact rate per effort parameters, and the inclusion of fall 2005, March and April 2006, and matching tribal harvest estimates.

Mr. Anderson asked if the accounting period for KRFC was September 1 through August 31, whereas the accounting period for Snake River wild and Coweeman natural tulle fall Chinook is October 1 through September 30, does that mean some SRW and Coweeman impacts have already accrued in the fall Oregon fisheries? Mr. Simmons replied yes.

Mr. Anderson asked if the high effort levels observed in fall 2005 are represented in the 2006 KOHM. Mr. Simmons replied yes.

Mr. Lockhart asked if the KOHM required further modification. Mr. Simmons replied the STT was currently satisfied with the KOHM and the input parameters.

Mr. Roth asked for an explanation of why the age-4 harvest rate in Option II was higher than Option III, yet spawning escapement was greater in Option II than Option III. Mr. Grover replied it probably reflects differential harvest rates by age.

Mr. Lockhart asked how much of the 24.7% age-4 harvest rate on KRFC resulted from the fall 2005 fisheries. Mr. Simmons replied 6.7% as reported in Preseason Report I, which was an observed estimate, as opposed to the remaining 18%, which was a prediction of March and April 2006 fisheries.

Mr. Melcher asked for clarification on the perceived increase in effort for the Oregon commercial fishery over the SRFI base period. Mr. Simmons replied that total effort was similar, but Chinook-directed effort has increased as a result of the coho retention prohibition. The large Chinook effort increase took place in 1995, two years after the 1988-1993 SRFI base period.

Mr. Anderson asked if a greater proportion of the effort occurred in October relative to earlier years and those impacts are already included in the model. Mr. Simmons replied yes.

### **C.6.c Reports and Comments of Advisory Bodies**

Mr. Stevens provided comments on behalf of the SAS. The SAS was briefed by Mr. Grover on all the changes in the KOHM, which answered some of the questions they had. No discussions occurred between the SAS and STT on changes relative to Coweeman tules in the Chinook FRAM.

### **C.6.d Public Comment**

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, California

Mr. Ben Platt, Salmon Trollers Marketing Association, Fort Bragg, California

Mr. Keith Olson, Salmon Trollers Marketing Association, Fort Bragg, California  
Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

### **C.6.e Council Guidance and Direction for 2006 Management Options**

Ms. Vojkovich said she was unprepared to provide guidance without additional information regarding modifications to the KOHM parameters and an exploration of different approaches. She requested Mr. Grover present the KOHM parameter changes to the Council.

Mr. Melcher noted the KFMC received a detailed presentation of the KOHM performance cell by cell, and he did not feel the changes made by the STT were improper as long as they were not setting a precedent for the future. He did not oppose a presentation of the KOHM parameter changes, but did not feel the need from his perspective.

Mr. Lockhart did not mind having the presentation as an informational item, but did not want to recommend changes, which was the STT's role.

Mr. Melcher noted the KRFC impacts in Option I were alarming, but there were changes to fisheries that would make it more reasonable. He noted the 2006 season presented several challenges, including a model that had not performed well the past three years, a low KRFC forecast, scientific uncertainty, and political science involvement. He proposed the following changes to the options presented in Agenda Item C.6.b, Supplemental STT Report:

Table 1, Page 3, Cape Falcon to Florence South Jetty: Option I - change southern boundary to Humbug Mt., close March and April, and include 50 Chinook per vessel per week landing and possession limit in September and October; Option II – Strike the Saturday through Tuesday language, change May and June season dates to the same as Option I with a 100 Chinook per vessel per open period (per calendar week in June), change the September open dates to September 5 to 9 and 20 to 25 with a 50 Chinook per vessel per open period landing and possession limit, and closed in October; Option III – Closed.

Table 1, Page 4, Florence South Jetty to Humbug Mt: Option II – for the area between Florence South jetty and Cape Arago the same open dates as Cape Falcon to Florence South Jetty, but with a 75 Chinook landing and possession limit in May and June, and for the area south of Cape Arago closed; Option III closed.

Table 1, Page 5, Humbug Mt. to OR/CA border: Option I – Close the March and April fishery; Option III – closed.

Mr. Melcher noted the closure of the area between Florence south jetty and Cape Arago could not be modeled with the KOHM, but because it was on the southern end of the Coos Bay cell, it should provide some lessening of KRFC impacts.

Mr. Tracy noted the recreational KMZ season in Table 2, page 14 for Option II was modeled by the STT with only the Oregon portion open and the dates were essentially half of the open dates in Option I. Mr. Melcher said he understood the CA side of the KMZ would be opened under that same management approach, and would consult with Ms. Vojkovich on appropriate structure.

Mr. Ticehurst asked if Mr. Melcher had estimated KRFC spawning escapement for the proposed changes. Mr. Melcher replied that coupled with a closure of the Fort Bragg commercial fishery in March, he estimated about 14,000. He felt that was reasonable to send out for public comment.

Mr. Melcher asked if the north of Falcon troll regulations requiring no more than one spread with one Minutes  
March 2006 (182nd Council Meeting)

flasher during the plug only fishery was necessary. If there were no hook on the flasher would it be considered fishing, and why impose a limit on the number of flashers? Mr. Anderson replied he would consult with the SAS and EC and request their input.

Mr. Anderson noted the ocean exploitation rate of 14% of LCR coho would not meet inside fishery needs and noted it may be necessary to change coho quotas before final adoption.

Mr. Bob Lohn and Mr. Rod McInnis presented Agenda Item C.4.d, Supplemental NMFS ESA Guidance Letter. The letter was entirely consistent with the advice given verbally by Dr. Dygert under Agenda Item C.4 on Tuesday. Extra time was needed to clear the letter with the administration. The letter reflects the view taken by the Council regarding KRFC, that the primary cause of the decline in abundance was draught conditions and the disease problems in the Klamath Basin. NOAA Fisheries was aware of the impact of the fishery restrictions on fishing communities and had deep feelings of respect and sympathy for fishermen and the communities affected. NOAA Fisheries supported the Council process in looking at the alternatives.

Ms. Vojkovich proposed the following changes to Agenda Item C.6.b, Supplemental STT Report:

Table 1, Page 5, OR/CA border to Horse Mt.: Option I – Close the March and April fishery and change the September Chinook quota to 2,000; Option II – closed.

Table 1, Page 6, Horse Mt. to Point Arena: Option III – Close the March and April fishery.

Table 1, Page 6, Point Arena to Pigeon Point: Option I – include a 50 Chinook per vessel per calendar week landing and possession limit; Option II – reduce July to 15 days open and include a 50 Chinook per vessel per calendar week landing and possession limit.

Table 1, Page 6, Pigeon Point to Point Sur: Option I – include a 100 Chinook per vessel per calendar week landing and possession limit; Option II – Closed in July and include a 100 Chinook per vessel per calendar week landing and possession limit.

Table 1, Page 6, Point Sur to U.S./Mexico border: Option III – Same as Option I.

Table 2, Page 13, Supplemental; Management Information: Options II and III – Klamath River recreational fishery allocation: 0%.

Table 2, Page 14, OR/CA border to Horse Mt.: Option II – Change northern boundary to Humbug Mt. and closed in June.

Table 2, Page 14, Horse Mt. to Point Arena: Option II – Closed in June .

Table 2, Page 14, Point Arena to Pigeon Point: Option II – Change June 1-13 and to June 24-30, and July 1-10 to July 1-9.

Table 2, Page 15, Pigeon Point to Point Sur: Option I – Change April 1 to May 1.

Table 2, Page 15, Pigeon Point to U.S./Mexico border: Option II – Change southern boundary to Point Sur and change April 1 to May 1; Option III – Change southern boundary to Point Sur.

Table 2, Page 15, Pigeon Point to U.S./Mexico border: Option II - Change northern boundary to Point Sur; Option III – Change northern boundary to Point Sur, and change “Closed” to “Same as Option I”.

Mr. Melcher noted he concurred with Ms. Vojkovich regarding the recreational KMZ season structure, and recommended the STT model the recreational coho selective fishery in Option II with a closing date of July 31 rather than August 31.

Mr. Lockhart asked if the proposed trip limits could be modeled. Mr. Simmons replied the STT did not want to use ad hoc methods to estimate the effects of trip limits. The STT would conduct an analysis and report back to the Council in April.

Mr. Roth asked the STT to provide an estimate of river mouth return of KFMC.

Mr. Tracy noted that many of these options include openings in March 2007, and urged that those fisheries are addressed in the final package.

## **C.7 FMP Amendment Scoping for de minimis Fisheries Associated with Klamath River Fall Chinook Impacts**

### **C.7.a Agenda Item Overview (03/10/06; 1:03 pm)**

Mr. Tracy presented the agenda item overview.

### **C.7.b Report of the Klamath Fishery Management Council**

Mr. Melcher said the KFMC re-endorsed the statement provided in November of 2005, Agenda Item C.7.a, Attachment 1.

### **C.7.c Agency and Tribal Comments**

Ms. Desma Williams provided comments on behalf of the Yurok Tribe. The Yurok Tribe recommended a precautionary approach to a plan amendment that would preserve the genetic diversity of the sub-populations of KRFC during periods of low abundance. The Yurok Tribe endorsed a range of options from status quo to a maximum spawner reduction rate of 10%, similar to the KFMC proposal.

Mr. Harp noted the Hoopa Valley Tribe had written comments in Agenda Item C.7.c, Supplemental Comments of Hoopa Valley Tribe.

Mr. Melcher noted it would ordinarily be the state and tribal agencies taking the lead on an FMP amendment, especially for a stock that was not listed under the ESA, and where the federal nexus was not as direct. However, because KRFC and the KOHM are used to represent and model impacts on CC Chinook, which is ESA listed, it is important for NMFS to be closely associated with the FMP amendment.

Ms. Vojkovich agreed with Mr. Melcher's comments. She expected the state of California would provide information and/or technical assistance. However, the amount of staff time available will be limited. She noted the state of California did not support any predecisional outcome of the FMP amendment process.

Mr. Anderson noted the situation summary included other potential topics to consider in this plan amendment cycle, including conservation objectives updated or modified through co-management agreements, and management plans that provide coverage for fisheries under the ESA. He supported an approach to address the language requiring action in the Salmon FMP Conservation Alert that would allow some form of de minimis fisheries. The approach in the KFMC recommendation had merit, but other approaches should be explored.

Mr. Roth noted including stocks other than KRFC would add time to the process, which should be part of the Council's consideration.

Mr. Lockhart stated NMFS was prepared to play an appropriate role, but that staff time was limiting.

#### **C.7.d Reports and Comments of Advisory Bodies**

Mr. Simmons presented Agenda Item C.7.d, Supplemental STT Report.

Mr. Stevens presented Agenda Item C.7.d, Supplemental SAS Report.

Mr. Tracy read Agenda Item C.7.d, Supplemental SSC Report.

#### **C.7.e Public Comment**

Mr. Dave Bitts, PCFFA, McKinleyville, California

Ms. Vojkovich asked if the PCFFA offer to help on the amendment was still on the table. Mr. Bitts replied yes.

#### **C.7.f Council Action: Provide Direction for Developing FMP Amendment Alternatives to Address *de minimis* Fisheries**

Dr. McIsaac introduced Agenda Item C.7.f, Supplemental Staff Report, Council Action Possibilities.

Ms. Vojkovich asked how a rebuilding plan would mesh with the schedule for an amendment if the declaration of the stock being overfished would not be made until 2007. Mr. Tracy replied that if the Salmon FMP Conservation Alert and Overfishing Concern were triggered, certain reviews and responses would be required, and given the likelihood of those occurrences, including a rebuilding plan for KRFC in the FMP amendment could help expedite 2007 management.

Mr. Melcher was reluctant to take the STT's recommendation because it would add a year to the process and add to the debate and uncertainty experienced in 2006. He recommended consideration of a fixed harvest rate and a sliding scale like the KFMC recommendation as two of the alternatives. He also recommended a discussion of minimal fishing objectives and how they mesh with the alternatives given annual changes and possible benefits associated with factors such as abundance of other stocks like Central Valley stocks.

Mr. Ticehurst recommended review of the appropriate spawner escapement floor relative to the spawner/recruit relationship illustrated in Agenda Item C.4.a, Supplemental Attachment 3. He also recommended one alternative be a management objective for KRFC based on annual river conditions, and an emergency rule to implement such an objective for 2006 management.

Mr. Lockhart noted Agenda Item C.4.d, Supplemental NMFS ESA Guidance Letter, stated the difficulty of supporting any fishing this year under a request for emergency action for the Council. He asked Mr. Ticehurst if his plan was to broach the subject now or at the April Council meeting after the STT analysis of the Options and an opportunity for public comment had been completed. Mr. Ticehurst, replied he would like a discussion of the topic between now and the April Council meeting.

Mr. Lockhart felt there was inadequate information to discuss the issue at this time.

Dr. McIsaac stated Agenda Item C.7 contemplated a future FMP amendment, and not an emergency rule amendment for 2006. Under Agenda Item C.8, if the Council recommends an Option requiring an emergency rule, the justification of the emergency rule should be part of the discussion, as outlined in the COP.

Mr. Melcher asked if it would be unorthodox to consider a rebuilding plan prior to a formal overfishing declaration. He recommended the Council proceed with an amendment and pursue it expeditiously so the Council is not faced with a similar situation in 2007.

Mr. Lockhart agreed with Mr. Melcher's recommendation, but took the STT report seriously, regarding the analytical time frame. He asked, if the process was started now, if it would have to be finished in November, 2006 to facilitate a potential emergency rule for 2006. Ms. Cooney replied the MSA requires the Council to be in the process of an FMP amendment to extend an emergency rule for a second 180 days.

Mr. Moore noted that groundfish amendments frequently run over the original schedule. He recommended the process be started as soon as possible so it could be concluded as soon as possible.

Dr. McIsaac noted that issue 1 on Agenda Item C.7.f, Supplemental Staff Report, change the conservation criteria and Council response, was the most important to avoid an emergency rule situation for 2007, the other issues were not as time critical.

Mr. Anderson recommended proceeding with Council Action 1, Issue 1. Issue 2 deserves attention but would be a longer term project. Council Action 2 Alternative 2, the KFMC sliding scale should be included in the range of alternatives as well as Alternative 3. The Council should identify the FMP amendment workgroup as noted in Council Action 3. An assessment of including a broader range of issues or stocks than just KRFC could be done at a later date and should not hold up initiation of the amendment process. The more concise and focused the amendment, the better the chance of completion prior to 2007.

Mr. Melcher said the emergency rule situation would influence his support of a more protracted process. If use of an emergency rule were unlikely for 2007, it would be more important to expedite the process.

Ms. Vojkovich recommended model uncertainty be considered in an amendment process for establishing de minimis fisheries.

Dr. McIsaac asked for Council recommendations for possible workgroup members.

Mr. Melcher committed the ODFW STT representative and other staff as appropriate. He suggested the Council invite tribal staff to participate. He recommended contacting Mr. LB Boydston and S.P. Cramer and Associates as possible contractors.

Ms. Vojkovich asked if the SSC's offer to help was in the development or review stages. Dr. McIsaac replied the SSC should be part of the workgroup, and will have review responsibilities as well.

Ms. Vojkovich supported having SAS members on the workgroup, and committed to including CDFG STT representative and other staff working on the Klamath River.

Mr. Harp reported the Hoopa Valley Tribe indicated an interest in participating, and suggested asking Mr. Mike Orcutt to have Mr. George Kautsky appointed to the workgroup. He also recommended Mr. Dave Hillemeier and Ms. Desma Williams from the Yurok Tribe be invited. Mr. Harp also supported Mr. Boydston as a contractor.

Mr. Lockhart reported NOAA Fisheries would participate as well.

Mr. Lockhart then announced that NOAA Fisheries has accepted the Council's inseason actions taken under Agenda Item C.2.

## **C.8 Adoption of 2006 Management Options for Public Review**

### **C.8.a Agenda Item Overview**

Mr. Tracy presented the situation summary.

### **C.8.b Report of the STT (03/10/06; 4:22 pm)**

Mr. Simmons reviewed Table 5 of Agenda Item C.8.b, Supplemental STT Report.

Mr. Melcher asked if the LCR natural tule Chinook exploitation rates reflected 2005 inriver fisheries. Mr. Simmons replied yes, the modeled impacts were 6% for inriver fisheries

Dr. McIsaac asked what the proportion of natural spawning Chinook was in the KRFC returns. Mr. Simmons replied Option I estimated about 60% of the return would spawn in natural areas and 40% in the hatcheries.

Mr. Melcher noted Option I did not meet the ESA consultation standard for CC Chinook.

### **C.8.c Reports and Comments of Advisory Bodies**

None.

### **C.8.d Agency and Tribal Comments**

Mr. Anderson noted some of the Chinook impacts in Option I would require some additional shaping to meet relevant conservation standards, but anticipated that could be largely achieved through the co-manager and constituent process in the north of Falcon forum.

Mr. Harp presented Agenda Item C.8.d, Supplemental Tribal Recommendations.

Mr. Harp noted the options in Agenda Item C.8.b, Supplemental STT Report reflect the treaty troll options provided to the STT under agenda Item C.4, and represent an appropriate range of Options for public comment.

### **C.8.e Public Comment**

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington

Ms. Barbara Emley, PCFFA, San Francisco, California

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Ben Platt, Salmon Trollers Marketing Association, Fort Bragg, California

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, Oregon

Mr. Melcher asked if Mr. Boley's point was KRFC impacts in fall fisheries may not represent CC Chinook well if the two stocks had different run timing, and could have different birth dates. Mr. Boley replied yes, that CC Chinook likely had a later entry into freshwater and so should have a later birth date.

Dr. McIsaac asked if Mr. Boley had estimated the effect of landing limits on commercial catch. Mr. Boley recommended hindcasting the recent three years to get a conservative estimate of catch

reduction. Additional reductions would accrue from the disincentive for highliners to participate, which could not be quantified.

Mr. Ralph Brown, Curry County Oregon, Coos Bay, Oregon

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

#### **C.8.f Council Action: Adopt 2006 Management Options for Public Review**

The Council discussed application of the criteria for implementing regulations by emergency rule (03/10/06; 3:35 pm) before public comment. The Council acknowledged the criteria in COP 10 (Agenda Item C.4.a, Attachment 2), and requested the STT be involved in any analysis of the potential effects of fishing below the floor spawning escapement level for KRFC on long term yield of the stock, and requested the SSC review the analysis. The Council also recommended the SAS review any allocation issues, and NMFS SWR assist the STT and Council staff in an economic analysis. The results of the analyses would be available by the April 2006 Council meeting so the Council could make a final determination at that time whether to request implementation by emergency rule, and an associated environmental assessment (EA).

Council discussion after public comment:

Mr. Ticehurst moved (Motion 27) the Council adopt for public comment options with a range of KRFC spawning escapement values as contained in Agenda Item C.8.b, Supplemental STT Report. Options I and II would be identified as requiring emergency rule to implement. Mr. Thomas seconded the motion.

Mr. Melcher supported the options in Agenda Item C.8.b, Supplemental STT Report being sent out for public review, but was reluctant to support a motion that would constrain the level of spawning escapement the Council could adopt in April for implementation by emergency rule. Mr. Ticehurst agreed with Mr. Melcher and stated his intent was not to limit the range.

Mr. Anderson requested Motion 27 to be withdrawn, then adopt the options for public review, and finally identify those requiring implementation by emergency rule.

Maker and seconder agreed to withdraw Motion 27.

Mr. Anderson moved (Motion 28) to adopt for public review the non-Indian management options for commercial and recreational fisheries as listed in Agenda Item C.8.b, Supplemental STT Report, for the area North of Cape Falcon to the U.S./Canada border. Mr. Cedergreen seconded the motion. Motion 28 passed.

Mr. Melcher moved (Motion 29) to adopt for public review the non-Indian management options for recreational fisheries for the area south of Cape Falcon to Horse Mt., and for commercial fisheries the area south of Cape Falcon to the Oregon/California border, as presented in Agenda Item C.8.b, Supplemental STT Report. Mr. Moore seconded the motion. Motion 29 passed.

Ms. Vojkovich moved (Motion 30) to adopt for public review the non-Indian management options for recreational fisheries south of Horse Mt. and for commercial fisheries south of the OR/CA border, as presented in Agenda Item C.8.b, Supplemental STT report, with the following corrections: page 6, Option II, Pt. Arena to Pigeon Pt., open July 1 to 15 and August 1 to September 30; and page 18, footnote C.6 Additional Seasons, add the State of California. Mr. Ticehurst seconded the motion. Motion 30 passed.

Mr. Harp moved (Motion 31) to adopt for public review the treaty Indian ocean salmon season as presented in Agenda Item C.8.f, Supplemental Tribal Motion. Mr. Warrens seconded the motion. Motion 31 passed.

Mr. Cedergreen moved (Motion 32) to notify the public that Options I and II would require emergency action to implement if adopted. Mr. Mallet seconded the motion

Mr. Alverson asked if the motion would preclude flexibility to adopt another option in April. Mr. Anderson replied no, but requested the motion be amended to include the following preliminary justification for an emergency rule addressing the criteria in Agenda item C.4.a, Attachment 2: 1) the parasite infestation and low flows were not anticipated; 2) eliminating harvest will have substantial economic hardship on the communities between Cape Falcon, OR and Point Sur, CA; 3), there was not a change in allocation prescribed in the FMP; 4) the action is necessary to meet FMP Objective 3 in section 5.1; and 5) based on the spawner recruit history, it appears the range of spawner escapement being contemplated falls within that range, which resulted in robust recruitment in the past, and therefore was unlikely to decrease long term productivity of the stock. However, additional analysis on numbers 2) and 5) would occur prior to the April Council meeting.

Mr. Cedergreen accepted the friendly amendment to Motion 32. Secunder agreed.

Motion 32 passed.

Dr. McIsaac asked if there were other emergency rule criteria the Council needed to consider at the March meeting. Ms. Cooney replied the NMFS criteria was paraphrased in the Council criteria, and would suffice for now.

**C.9 Salmon Hearings Officers (03/10/06; 3:29 pm)**

**C.9.a Agenda Item Overview**

Dr. Coon presented the agenda item overview.

**C.9.b Council Action: Appoint Hearings Officers**

Hearing officers were appointed as follows:

Date Day/Time	Location	Council	NMFS	USCG	Staff	Salmon Team	Meeting Facility Contact
March 27 Monday 7 p.m.	Chateau Westport Beach Room 710 West Hancock Westport, WA 98595	B. Alverson (HO) M. Cedergreen P. Anderson J. Harp	P. Dygert	TBD	K. Dahl	D. Milward	Kathie or Chuck (360) 268-9101 Phone (360) 268-1646 Fax
March 27 Monday 7 p.m.	Red Lion Hotel South Umpqua Room 1313 North Bayshore Dr. Coos Bay, OR 97420	F. Warrens (HO)	F. Lockhart	TBD	C. Tracy	C. Foster	Ms. Kristi Snow (541) 269-4099 Phone (541) 267-2884 Fax
March 28 Tuesday 7 p.m.	Flamingo Hotel Flamingo Ballroom 2777 Fourth Street Santa Rosa, CA 95405	R. Thomas (HO)	E. Chavez	TBD	C. Tracy	A. Grover	Valerie Lafferty (707) 545-8530 Phone (707) 528-1404 Fax

## **D. Enforcement Issues**

### **D.1 Fishery Enforcement Activity Report (03/06/06; 4:30 pm)**

#### **D.1.a Agenda Item Overview**

Mr. Jim Seger provided the agenda item overview. Cdr. Fred Myer introduced Rear Admiral Houck. He noted Cdr. Myer will be transferred to Boston in a few months.

#### **D.1.b Annual U.S. Coast Guard Report**

Cdr. Fred Myer provided a powerpoint presentation (on file and on the website).

#### **D.1.c Reports and Comments of Advisory Bodies**

None.

#### **D.1.d Public Comment**

#### **D.1.e Council Discussion on Enforcement Issues**

Mr. Alverson noted that the Automatic Identification System hardware is to be carried by fishing vessels greater than 65 feet in length. He asked if the basis would be length overall. Mr. Myer replied that it was to be the length on the USCG documentation.

## **E. Pacific Halibut Management**

### **E.1 Report on the International Pacific Halibut Commission (IPHC) Annual Meeting (03/07/06; 8:08 am)**

#### **E.1.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

#### **E.1.b Summary of Meeting**

Mr. Anderson, Council representative to the IPHC, attended the annual meeting of the IPHC in January. He summarized Agenda Item E.1.a, Attachment 1.

#### **E.1.c Reports and Comments of Advisory Bodies**

None.

#### **E.1.d Public Comment**

None.

#### **E.1.e Council Discussion on IPHC Annual Meeting Report**

Mr. Alverson moved (Motion 3) to accept the report of the IPHC (Agenda Item E.1.a, Attachment 1). Mr. Cedergreen seconded the motion; Motion 3 passed.

**E.2 Incidental Catch Regulations for the Salmon Troll and Fixed Gear Sablefish Fisheries (03/07/06; 8:16 am)**

**E.2.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

**E.2.b State Proposals for the Salmon Troll Fishery**

None.

**E.2.c State Proposals for the Fixed Gear Sablefish Fishery**

Mr. Anderson noted the 2005 restrictions (status quo) worked well, and recommended bounding the status quo alternative with two other alternatives.

**E.2.d Tribal Comments**

Mr. Harp presented Agenda Item E.2.d, Supplemental Tribal comments.

**E.2.e Reports and Comments of Advisory Bodies**

Mr. Jim Olson presented Agenda Item E.2.e, Supplemental SAS Report.

Mr. Tracy read Agenda Item E.2.e, Supplemental GAP Report.

**E.2.f Public Comment**

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, Washington

**E.2.g Council Action: Adopt Public Review Options for 2006**

Mr. Anderson moved (Motion 4) to adopt for public review a range of options for incidental halibut retention as shown in Agenda Item E.2.e, Supplemental SAS Report. Mr. Cedergreen seconded the motion; Motion 4 passed.

Mr. Anderson moved (Motion 5) to adopt for public review a range of landing restrictions for Pacific Halibut retention in the non-Indian commercial sablefish fishery north of Point Chehalis that included status quo; an option that allows two halibut plus 120 pounds of halibut per 1,000 pounds of sablefish; and a third option that allows two halibut plus 80 pounds of halibut per 1,000 pounds of sablefish. Mr. Alverson seconded the motion; Motion 5 passed.

**F. Groundfish Management**

**F.1 NMFS Report (03/07/06; 8:29 am)**

**F.1.a Regulatory Activities**

Mr. Frank Lockhart summarized Agenda Item F.1.a, Attachment 1, a list of groundfish and halibut *Federal Register* notices October 25, 2005 through February 13, 2005.

**F.1.b Science Center Activities**

Dr. Elizabeth Clarke, Northwest Fisheries Science Center (NWFSC), provided a quick update covering issues such as the newly trained class of fishery observers and the preparation of the onboard monitoring

cameras for the shoreside whiting fleet. She reported that there is no 2006 funding for the bottom trawl survey, as well as for cooperative research.

#### **F.1.c Reports and Comments of Advisory Bodies**

None.

#### **F.1.d Public Comment**

None.

#### **F.1.e Council Discussion**

Given the urgency to solve the 2006 bottom trawl survey funding issue, Mr. Moore proposed that the Council prepare a letter to Dr. Hogarth to request reinstatement of the funding. The Council reached consensus, with abstention from Mr. Lockhart, to send such a letter.

### **F.2 Stock Assessment Planning for the 2009-2010 Fishing Season (03/07/06; 9:30 am)**

#### **F.2.a Agenda Item Overview**

Mr. John DeVore provided the agenda item overview.

#### **F.2.b Report from the Stock Assessment Process Review Workshop**

Dr. McIsaac provided a summary (bullets from minutes of the January Groundfish Stock Assessment Review Workshop, Agenda Item F.2.b, Attachment 1), highlighting the workshop report's proposed revisions to the procedures and guidelines for stock assessments and planning. These revisions included reducing the number of assessments performed per year, suggestions on improving time management, and formalizing the role of GMT and GAP representatives in future Stock Assessment Review (STAR) panels.

#### **F.2.c Stock Assessment Options**

Dr. Clarke provided a PowerPoint presentation on the 2007 stock assessment cycle. Her presentation represented an attempt to compile a list of species for the 2007 cycle that complies with the stock assessment workshop recommendations and follows a set of priorities based on those recommendations and NMFS protocols. Two previously unassessed species are included in the proposed list, longnose skate and dogfish, as they were dropped from the last cycle but had been strongly advocated for by certain advisory groups. Chilipepper rockfish and arrowtooth flounder are also proposed for assessment in 2007 as they are overdue for assessment and had also been dropped from the last cycle. She mentioned that Center for Independent Experts (CIE) reviewers won't be available for routine assessment reviews and will be used sparingly in the next cycle. One of the NMFS assessment protocols in assessments greater than 5 years old are considered outdated. The NWFSC recommends all assessments be done using the Stock Synthesis 2 (SS2) model. The NWFSC also recommends including the NWFSC shelf/slope trawl survey index in future stock assessments, five STAR panels plus a "mop-up" STAR panel next year, and scheduling another Stock Assessment Review Workshop after the next cycle of assessments is completed. The NWFSC is planning to sponsor a juvenile survey workshop, possibly in September, to develop protocols for integrating these survey results in assessments. Additionally, an assessment data and modeling workshop is being planned for October.

Mr. Moore asked if the lack of CIE reviewers is due to the constrained 2007 administrative budget and Dr. Clarke answered the funds allocated to the CIE were reduced and the demand for CIE reviewers nationwide has increased. Mr. Moore asked if CIE funds are allocated from NMFS Headquarters and Dr. Clarke answered yes. The NWFSC explored funding CIE reviewers from their budget, but money is lacking.

Ms. Vojkovich asked if assessments on overfished species are required every two years and Dr. Clarke said no, only a review of the adequacy of rebuilding plans is required every two years. Ms. Vojkovich asked why the NWFSC was requiring inclusion of the shelf/slope trawl survey in future assessments and Dr. Clarke answered this is the only systematic fishery-independent survey available.

Mr. Anderson asked if the black rockfish assessment recommendation was to do one full coastwide assessment and Dr. Clarke said yes. Mr. Anderson asked about the criteria for specifying the lead agency in each assessment and Dr. Clarke said she specified the NWFSC as the default lead agency in cases where there were no volunteers. The NWFSC is not demanding to do any one assessment.

Mr. Alverson asked about the implications of no bottom trawl survey in 2006 and Dr. Clarke responded more precautionary decisions will have to be made and future stock assessments will be less adequate.

#### **F.2.d Preliminary Stock Assessment Terms of Reference**

Dr. Martin Dorn summarized the portion of the SSC statement relating to Agenda Item F.2.d, Attachment 1, the draft Terms of Reference for the Groundfish Stock Assessment and Review Process for 2007-2008.

Mr. Moore questioned why the SSC's revision of the Terms of Reference does not define the role of the GAP and GMT members in STAR Panels, as the workshop had recommended. Dr. Dorn replied that the SSC was concerned about giving voting rights to those that could have an economic interest in stock assessment results.

Mr. Moore asked, without CIE help, how will the SSC round up outside reviewers and Dr. Dorn replied the SSC supports outside reviewers, but has no control of funding.

Ms. Vojkovich said one of the recommendations from the Stock Assessment Review Workshop was to develop more informative decision tables in assessments. Was this incorporated in the revised Terms of Reference? Dr. Dorn said the SSC is thinking about this issue and will recommend changes in the next draft of the Terms of Reference.

#### **F.2.e Reports and Comments of Advisory Bodies**

##### SSC Report

Dr. Dorn provided Agenda Item F.2.e, Supplemental SSC Report. Given fiscal and time constraints on the number of stock assessments to be performed each cycle, the SSC recommended establishing a more formal selection process, in which each stock's need for assessment is evaluated against a set of biological, economic, and management criteria. The SSC volunteered to take the lead on organizing this and coordinating with other advisory bodies interested in collaborating. Any changes to the selection process would be applied to the next cycle.

Mr. Lockhart asked what is meant by an indicator species and Dr. Dorn answered the status of an indicator species may help to understand the health of the ecosystem and habitat.

Ms. Vojkovich asked if 23 stock assessments is too many to accommodate in one cycle, does the list recommending 15-18 stock assessments address the workload issues? Dr. Dorn replied updated

assessments are easily reviewed by the SSC Groundfish Subcommittee. Limiting the number of full assessments addresses the workload issues. With time, more updated assessments can be scheduled, which would add time and resources to do new full assessments for previously unassessed species.

Dr. McIsaac asked if the SSC will recommend a more formal process for prioritizing assessments by April and Dr. Dorn said no, such recommendations will be forthcoming for the next assessment cycle.

### GMT Report

Ms. Susan Ashcraft provided Agenda Item F.2.e, Supplemental GMT Report. The GMT proposed a formalized stock assessment cycle selection process similar to that suggested by the SSC.

Mr. Moore asked about the GMT's recommendation on formalizing their role in the STAR panel process and Ms. Ashcraft said there was no consensus, but the GMT did want to stay involved.

Ms. Vojkovich said the SSC was recommending criteria for prioritizing stock assessments be developed for the following cycle, but the GMT is recommending this be done for the next cycle. Ms. Ashcraft said the GMT was comfortable delaying developing these new criteria.

Mr. Anderson asked if the GMT discussed the concept of a coastwide black rockfish assessment and Ms. Ashcraft said the GMT did not interpret this recommendation as a single coastwide assessment.

Mr. Melcher asked if the GMT's chilipepper rockfish recommendation was consistent with that from the NWFSC and Ms. Ashcraft said yes.

### GAP Report

Ms. Heather Mann provided Agenda Item F.2.e, Supplemental GAP Report. Although not included in the written statement, Ms. Mann noted that the GAP supports changing the Terms of Reference to include the GMT and GAP representatives participating in STAR panels as voting members.

Dr. McIsaac asked for clarification on the recommendation that GAP representatives to STAR panels be formal members of the STAR panel and Ms. Mann said the GAP representatives need to be involved in all aspects of the STAR process. Mr. Moore noted the revised Terms of Reference lists GAP and GMT representatives as advisors and asked if the GAP recommendation is they should be full members. Ms. Mann said yes.

#### **F.2.f Public Comment**

None.

#### **F.2.g Council Action: Adopt for Public Review the Preliminary Terms of Reference, List of Stocks to be Assessed, and Stock Assessment Review Schedule for 2009-2010**

Ms. Vojkovich voiced her support for conducting assessments when they inform the management system and not just when the data is available, particularly if the data is weak and then management actions are based on those uncertain results. She was generally supportive of a six-year cycle for doing assessments, as this would allow for the accumulation of data to inform assessments. She expressed an interest in assessing Pacific sanddabs as an indicator of the status of a number of other nearshore flatfish species. In general, she is interested in identifying changes to the assessment prioritization process that would allow assessment scientists more time to try innovative approaches.

Mr. Lockhart said he understood updated assessments do not receive the level of scrutiny as full assessments; therefore, it is more important to limit the number of full assessments. Clarifying the meaning of an “updated” assessment, Dr. Clarke confirmed that these are truly routine updates in which new data are applied to an already Council-approved model. This should allow the time for which Ms. Vojkovich voiced interest. These updates are checked only to assure that the “rules” have not been changed since the most recent full assessment (that is, that data sources and model structure had not varied). Dr. McIsaac said problems arise when the protocols for updated assessments are not enforced by the STAR panel or the SSC.

Mr. Moore asked why petrale sole was recommended for a full assessment and Dr. Clarke said there are ageing issues that need to be worked out. Dr. Hastie confirmed this and added the same was true for darkblotched rockfish as well.

Mr. Moore moved to adopt for public review the list of stock assessments to be done next year as contained in Agenda Item F.2.c, NWFSC Report, with the following changes: move sablefish to a full assessment in 2007 and move the petrale sole assessment to an update in 2007 (Motion 6). The motion was seconded by Mr. Alverson. To support his proposed changes, Mr. Moore reminded the Council that when the sablefish assessment was adopted, there was a significant amount of discussion on the unique modeling approach that incorporated environmental factors, resulting in significant uncertainty. To keep the number of full assessments for 2007 constant, he therefore proposed changing the petrale sole assessment from a full one to an update.

Ms. Vojkovich proposed three friendly amendments to Motion 6: (1) shift the blackgill rockfish assessment from 2007 to 2009 based on recommendations in the GMT and GAP reports, (2) since sablefish is proposed to be scheduled for a full assessment in 2007, switch the 2009 sablefish assessment to an update; and (3) consider adding a full assessment of blue rockfish in the 2007 cycle. Mr. Moore and Mr. Alverson accepted the friendly amendments to the motion.

Mr. Anderson explained his concern that the next assessment of yelloweye is listed as an update, which would not allow the authors to incorporate new modeling approaches. He also was concerned that there has not yet been a full discussion on the use of a single coastwide stock assessment for black rockfish. The Council may wish to have such a discussion before making a final decision on the issue in April. Mr. Anderson made no motion with respect to either concern.

Motion 6 passed with no abstentions.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 7) to adopt the draft Terms of Reference for public review as contained in Agenda Item F.2.d, Attachment 1, with a request for public comment relative to the proposal that GAP and GMT representatives to the STAR Panel be considered full panel members.

Mr. Lockhart voiced his support of the GAP and GMT representatives retaining their advisor status, given that the STAR panel is a scientific review body. Mr. Moore said the data sets require interpretation using GMT and GAP knowledge of how the industry functions, the effect of market drivers, the relationship to management, etc. The GAP and GMT representatives are important to the STAR process and so should be recognized formally. Mr. Moore said, at this point, he is only seeking public comment on the issue.

Motion 7 passed with one member in opposition (Mr. Mallet).

### **F.3 Yelloweye Stock Assessment (03/07/06; 11:21 am)**

#### **F.3.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview. He noted that the rebuilding analysis document had been revised since it was printed for the briefing book; however, the revisions did not affect the projection runs. The final version is available on the Council website.

#### **F.3.b Scientific and Statistical Committee Report**

Dr. Steve Ralston provided Agenda Item F.3.b, Supplemental SSC Report.

The 2006 assessment includes catch data beginning in 1923, while the previous assessment's data series begins at 1953. Mr. Alverson asked about the effect of this data on driving the new model. Dr. Ralston explained that there are a number of contributing factors leading to the lower estimate of depletion; the longer historical data set is one factor, as is the lower estimate of natural mortality.

The issue of future data sources arose. In the 2006 assessment, the only trend index used to tune the assessment model is recreational catch per unit effort (CPUE) data; however with management restrictions on catch (bag limits), those time series end. There is no funding for the trawl survey. Therefore, if no other data trend sources are added, the change in status for the next assessment will be based entirely on the spawner-recruitment model, which is conjecture.

The 2005 assessment had originally been scheduled as an update, not a full assessment. Dr. Ralston confirmed that the 2005 assessment was not an update because although it did not use new data sources, it used a new model (SS2). The 2006 assessment also uses the SS2 model; however, other changes to the model were made, such as the use of an asymptotic selectivity curve. The SSC's conclusion is that the 2006 assessment's coastwide model represents the "best available science." Mr. Melcher asked about the apparent discrepancy in the implied coastwide distribution of yelloweye in this new assessment. Dr. Ralston explained trawl survey trends show the population biomass is centered off northern Washington, while the sub-area models in the new assessment, which are driven by the recreational CPUE trends by state, show a larger abundance off Oregon. Mr. Anderson explained that he felt very uncomfortable with basing management decisions on the assessment because of its high uncertainty and numerous assumptions. He asked Dr. Ralston if it would be worth spending the effort to further investigate data discrepancies before using the 2006 assessment for management purposes. Dr. Ralston responded that, as an SSC member, he did not want to advise the Council on management. He did say this assessment "pushes the envelope" in assessment uncertainty. He agreed with Mr. Anderson that many of the issues and discrepancies in the 2006 assessment are also found in the approved 2005 assessment.

#### **F.3.c Reports and Comments of Advisory Bodies**

##### GMT Report

Ms. Ashcraft provided Agenda Item F.3.c, Supplemental GMT Report.

Much of the discussion on the report related to the GMT's recommendation that the Council consider applying a phase-in approach to reduce the yelloweye OY. Under this harvest rate ramp-down approach, the OY for the next few years could be set at incrementally lower levels, rather than cut the OY drastically in 2007. The adoption of such a scheme would occur at the April meeting, when the Council adopts preferred OYs and the rebuilding plans for depleted species.

## GAP Report

Mr. Wayne Butler provided Agenda Item F.3.c, Supplemental GAP Report.

The GAP Report included economic data based on personal experience from GAP members; however, the economic effect on the tribal sector was not included as the tribal representative to the GAP was not present during the writing of the report. At Mr. Harp's request, two tribal members came to the podium to answer questions about economic impacts. Mr. Russell Svec, of the Makah tribe, explained that the lower yelloweye OY would particularly affect the longline fishery for halibut and blackcod, which is considered a primary fishery. The community impact would be devastating. Mr. Mel Moon explained that for the Quileute tribe, there would be little impact on the sablefish fishery, but the restrictions could strongly impact the halibut fishery.

### **F.3.d Public Comment**

Mr. Steve Westrick, Westport Charterboat Association, Westport, Washington

### **F.3.e Council Action: Approve Yelloweye Assessment and Rebuilding Analysis for use in the 2007-2008 Fishing Season (03/07/06; 1:35 pm)**

Mr. Alverson requested an analysis of the impacts associated with a 125-fm seaward RCA line for the fixed gear fleet; a measure contemplated to reduce yelloweye impacts relative to status quo, but not so onerous a change as specifying a 150-fm line.

Mr. Anderson asked if a phase-in yelloweye rebuilding strategy was legally viable to consider and Ms. Cooney replied yes, as long as there was adequate analysis and justification.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 8) to adopt the 2006 yelloweye stock assessment for use in managing the 2007-2008 groundfish fishery. Motion 8 passed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 9) to adopt a phase-in approach as one alternative to be analyzed for the yelloweye rockfish rebuilding plan, as proposed by the GMT in Agenda Item F.3.c, Supplemental GMT Report. The GMT is provided the flexibility to explore a linear phase-in designed to avoid large OY reductions over the phase-in period. The rebuilding analysis presented and reviewed by the SSC this week would be used to analyze phase-in alternatives. Motion 9 passed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 10) to have the Council direct the GMT and SSC to work with the yelloweye STAT Team in an effort to resolve the outstanding issues identified and discussed during the this week's SSC review of the 2006 yelloweye stock assessment. Ms. Vojkovich had concerns that this assessment took time away from other assessments. She felt that there were other assessments that also could be scrutinized and analyzed in more detail, not just the yelloweye. Motion 10 passed with one opposition (Ms. Vojkovich).

## **F.4 Pacific Whiting Management for 2006 (03/08/06; 1:17 pm)**

### **F.4.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview.

## **F.4.b Reports and Comments of Advisory Bodies**

### SSC Report

Dr. Kevin Hill provided Agenda Item F.4.b, Supplemental SSC Report. He noted that the assessment considered two alternative and equally plausible models based on the value for the catchability coefficient ( $q$ ) for the hydroacoustic survey ( $q=1$  and  $q=0.69$ ) and that the SSC would support the combining of results from both models (giving each model equal weight) to form the basis for management advice.

Mr. Moore expressed concern that the Pacific Whiting Conservation Cooperative (PWCC)/NWFSC juvenile survey data was not used in the model. Dr. Hill explained that although 2004 survey data indicate a strong year class will recruit to the fishery, the model has trouble fitting this. Mr. Moore asked, if stronger than average recent recruitment was validated by an accepted survey, would abundance and OY projections be more optimistic. Dr. Hill said yes.

Mr. Alverson asked why the assessment model did not predict a sustainable harvest rate ( $F$ ) for whiting and Dr. Hill said the  $F_{MSY}$  proxy is probably off. Discussion then turned to concerns about the problems with applying the 40-10 rule (used when a species is at a precautionary biomass level) to whiting, due to the high stock abundance/recruitment variability based on the strength of recruiting year classes.

### GMT Report

Ms. Susan Ashcraft (joined by Mr. Merrick Burden and Dr. John Field) provided Agenda Item F.4.b, Supplemental GMT Report. The GMT representatives answered numerous questions in order to clarify the report's recommendations on adopting an ABC and OY, as well as bycatch limits for canary, widow, and darkblotched rockfish.

### GAP Report

Mr. Dale Myer provided Agenda Item F.4.b, Supplemental GAP Report. The GAP supported the status quo alternative for setting the ABC and OY.

Mr. Anderson asked if the GAP discussed the possibility of a darkblotched cap, and if they had, what the value might be. Mr. Myer responded that although the GAP discussed the issue, they could not make an informed recommendation as they did not have data to indicate high and low bycatch levels over time in the fishery. There had been some discussion about numbers ranging from 30 to 40 mt, but there was no analytical basis for these values.

### SAS Report

Mr. DeVore read Agenda Item F.4.b, Supplemental SAS Report. Mr. Moore noted that there has been discussion about the fact that salmon bycatch data is not available from the at-sea whiting sector, and that it would be helpful to provide this data to the SAS and other interested parties. Mr. Lockhart said he would check on the availability of these data.

## **F.4.c Public Comment**

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, Washington

Mr. David Jincks, Midwater Trawlers Cooperative, Newport, Oregon

Mr. Steve Hughes, United Catcher Boats, Seattle, Washington

Ms. Heather Mann, West Coast Seafood Processors Association, Newport, Oregon

Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, Oregon

#### **F.4.d Council Action: Adopt 2006 Stock Assessment, ABC and OY Levels, and Management Measures**

Mr. Anderson noted the Council needs to consider 2-year projections of whiting stock depletion and specify a harvest level that keeps the stock above  $B_{25\%}$ . Mr. Anderson asked Dr. Field, if under the blended model approach, the depletion rate after the 2007 fishery would be under  $B_{25\%}$  if the coastwide OY were set to the same level as last year. Dr. Field said yes, it would be slightly over  $B_{25\%}$  at the start of 2008.

Mr. Anderson moved and Mr. Rod Moore seconded a motion (Motion 11) to adopt a coastwide ABC of 661,680 mt for Pacific whiting. This value is calculated using the more conservative  $q=1$  model. Motion 11 passed with one member in opposition (Mr. Alverson).

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 12) to adopt a coastwide OY of 364,842 mt for Pacific whiting, of which the U.S portion of the whiting OY would be 269,069 mt (status quo). Mr. Anderson stated this OY is projected to result in a stock depletion of about  $B_{30\%}$  at the start of next year. Next year's assessment can be used to adjust the 2008 OY.

Mr. Alverson asked Dr. Field if whiting spawning biomass would increase or decrease under a mean recruitment assumption. Dr. Field answered spawning biomass is projected to decline slightly under a mean recruitment assumption without fishing. Mr. Lockhart asked if recruitment might affect the stock's future overfished status and Dr. Field said yes.

Mr. Alverson stated he did not support the motion. Referring to the graph of the stock's abundance over time, he explained his concern for the declining trend and the risk associated with bringing the stock down to 25% of unexploited biomass, particularly since median year classes were projected for 2003 and 2004. Mr. Moore countered that the whiting stock is highly variable, as the historical spawning biomass estimates indicate. He supported Mr. Anderson's motion to adopt the status quo OY alternative. Mr. Anderson stated that he has similar concerns to those of Mr. Alverson, however he still supports his motion because, unlike many of other managed groundfish species, whiting has a much greater amount of real-time information on its status. Once new information is provided in 2007, the Council can reassess the OY as necessary.

Motion 12 passed with one member in opposition (Mr. Alverson).

Mr. Anderson said that since the Council has already put in place bycatch limits for canary and widow, no additional motion is required. However he recommended that the Council allow the GMT to provide them with a recommendation for a canary and widow bycatch limit during the inseason management agenda item once the scorecards are adjusted. He supports setting a bycatch cap for darkblotched, but recommended deferring until April, or perhaps later, in order to collect and analyze the appropriate data, as well as understand the relationship to salmon decisions.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 13) to have the Council consider a bycatch cap for darkblotched rockfish at the April Council meeting at the earliest. Motion 13 passed.

Mr. Harp moved and Mr. Melcher seconded a motion (Motion 14) to adopt a tribal set aside for Pacific whiting of 35,000 mt. This is based on the sliding scale allocation formula developed for tribal whiting fisheries. Motion 14 passed.

## **F.5 Consideration of Inseason Adjustments (03/09/06; 10:47 am)**

### **F.5.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview.

### **F.5.b Report of the Groundfish Management Team**

Ms. Ashcraft provided Agenda Item F.5.b, Supplemental GMT Report.

### **F.5.c Agency and Tribal Comments**

None.

### **F.5.d Reports and Comments of Advisory Bodies**

Mr. Tom Ghio provided Agenda Item F.5.d, Supplemental GAP Report.

### **F.5.e Public Comment**

Mr. Don Stevens, Oregon Salmon Commission, Newberg, Oregon

### **F.5.f Council Action: Adopt Recommendations for Adjustments to 2006 Fisheries**

Mr. Anderson moved and Mr. Melcher seconded a motion (Motion 18) to adopt the inseason adjustments as proposed by the GMT in Agenda Item F.5.b, Supplemental GMT Report, including the bycatch caps for canary and widow of 4.7 mt and 200 mt, respectively for the non-tribal Pacific whiting fishery.

Mr. Melcher clarified, and Mr. Anderson agreed, that this included the discard mortality rates in the GMT report. Motion 18 passed.

## **G. Habitat**

### **G.1 Current Habitat Issues (03/08/06; 3:40 pm)**

#### **G.1.a Report of the Habitat Committee**

Ms. Jennifer Gilden provided the agenda item overview. Mr. Stuart Ellis provided Agenda Item G.1.a, Supplemental HC Report and Agenda Item G.1.a, and Supplemental Attachment 3 (Letter to the Federal Energy Regulatory Commission [FERC] regarding relicensing of the four Pacific Power hydroelectric projects on the Klamath River).

#### **G.1.b Reports and Comments of Advisory Bodies**

None.

#### **G.1.c Public Comment**

Ms. Kiesha Marusa, Northern Star Natural Gas, Seattle, Washington, responded to the proposed HC letter on the proposed liquefied natural gas (LNG) terminal; explained mitigation and outreach efforts; and requested opportunity to give a presentation to the HC and/or Council.

Ms. Irene Martin, concerned citizen, Skamokawa, Washington, spoke in opposition to the proposed liquefied natural gas terminal; and raised habitat, safety, and water quality concerns.

#### **G.1.d Council Action: Consider HC Recommendations**

Ms. Vojkovich said she was unsure what the Council action might be on things like the LNG proposal, and which types of projects come to us and which don't. What is the authority or strategy for having the HC deal with these types of things? What is the Council's role?

Ms. Cooney said under essential fish habitat (EFH) rules, the Council has authority to comment on federal actions and, she thinks, state actions that affect EFH. It *must* comment on actions that affect salmon, but that's always been viewed as "according to your ability." Ms. Vojkovich asked how this issue came to the Council. Are we soliciting these or are we relying on our HC members to know what's going on? What's the workload expectation?

Mr. Warrens said he was involved with the Columbia River dredging project several years ago. It was his impression that NMFS habitat section is the lead agency when there's any disturbance of the benthic habitat. He is not aware of inriver projects where the Council would be directly involved other than notification.

Mr. Roth, who is on the HC, said a lot of projects do come to the attention of the HC because HC members hear about planned actions. The NMFS representatives usually hear about EFH actions first then bring them to the HC.

Mr. Ellis agreed, saying HC members have been looking out for what they professionally believe to be significant projects that may affect EFH, and they have been attempting to raise discussion about how best to interact with other agencies. The HC has not received formal direction from the Council about this. Lots of things go on that the HC never knows about or brings to the Council's attention, but we are keeping our eyes out for significant issues.

Chairman Hansen asked about the draft letter.

Ms. Vojkovich said, referring to Mr. Melcher's comments about several agencies being involved in FERC relicensing, as a representative of the state of California she would have to abstain from supporting any letter from the Council on this since there's a lot of discussions and activities taking place outside this venue that may cause an issue.

Mr. Mallet said he appreciated the HC bringing this to the Council's attention. The Council spent a good part of the day talking about Klamath problems, which we didn't address ahead of time, and now we are cleaning up the mess. I like the HC to bring these things to us ahead of time so we have an opportunity to address them. We need to be proactive. I appreciate the HC taking the time to bring these issues before the Council, and hope they continue to do so.

Mr. Melcher said he would like to have a little more time to read through the letter, and could not comment at this time. He said he did not oppose it in concept, but wants to make sure it is in line with other agency positions. Dr. McIsaac said the letter does have a placeholder for prescriptions and recommendations from federal agencies. Should the Council consider this in April or June? Mr. Ellis said as he understands it, April would be fine if the letter were completed then. He suspected that June might also work, since the decisions were to be made within the next couple of months.

Mr. Moore said he was pleased the folks from the gas company wanted to meet with the HC, and that the HC was going to hold off until they heard from both sides. He felt that was a good process to follow. He agreed with Mr. Mallet's comments. Knowing in advance what is going on gives a chance to comment and to influence what affects fish. However, he said he was reluctant to support the Council sending letters on habitat issues until the Council had heard from all sides. Dr. McIsaac said the letter would be

scheduled to go final at the April meeting. Based on Mr. Moore's comments, the HC should bring up the natural gas issue in June.

## **H. Coastal Pelagic Species Management**

### **H.1 NMFS Report (03/08/06; 4:24 pm)**

#### **H.1.a Regulatory Activities**

Mr. Helvey reviewed Agenda Item H.1.a, Attachment 1 regarding CPS regulatory activities since the November 2005 Council meeting. Mr. Judson Feder presided as NOAA GC representative during CPS agenda items.

#### **H.1.b Reports and Comments of Advisory Bodies**

None.

#### **H.1.c Public Comment**

None.

#### **H.1.d Council Discussion on NMFS Report for CPS**

None.

### **H.2 Fishery Management Plan (FMP) Amendment—Krill Management (03/08/06; 4:28 pm)**

#### **H.2.a Agenda Item Overview**

Mr. Burner provided the agenda item overview.

#### **H.2.b NMFS Report**

Mr. Svein Fougner reviewed Agenda Item H.2.b, NMFS Report, the Draft Environmental Assessment in support of Amendment 12 to the CPS FMP.

#### **H.2.c Reports and Comments of Advisory Bodies**

Mr. Brian Culver provided Agenda Item H.2.c, Supplemental CPSMT Report. Messrs. John Royal and Mike Okoniewski provided Agenda Item H.2.c, Supplemental CPSAS Report. Dr. Kevin Hill provided Agenda Item H.2.c, Supplemental SSC Report. Mr. Burner read Agenda Item H.2.c, Supplemental HC Report. Lt. Dave Cleary provided Agenda Item H.2.c, Supplemental EC Report.

#### **H.2.d Public Comment**

Mr. Ben Enticknap, Oceana, Portland, Oregon  
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia  
Mr. Dan Wolford, Coastside Fishing Club, Los Gatos, California  
Mr. Ryan Kapp, Fisherman, Bellingham, Washington

## **H.2.e Council Action: Adopt Final Preferred FMP Amendment Alternative**

Ms. Vojkovich asked about designating EFH in state waters and the type of information that would be needed to consider that. Ms. Vojkovich stated she thought NOAA General Council stated there was insufficient information in the document.

Mr. Judson Feder clarified his comments were not intended to suggest a lack of information. He said it was not clear to him if the scientific evidence suggests that EFH necessarily goes all the way to the coastline, but he also said is also unlikely that EFH would stop at the state boundary. Dr. Hill said in his opinion, EFH for krill is ocean water in the correct salinity and nutrient levels. He said we know krill are within a short distance of the shoreline. He also noted that CALCOFI sampling has identified krill at its nearshore stations.

Mr. Fougner noted, on page 34 of Agenda Item H.2.b, NMFS Report, under the HAPC options, the language talks about ocean waters off the sanctuary islands which is from the shore on out. He feels the case has been made to include state waters as EFH.

Mr. Roth said the issue of where to draw the line on EFH came up in the HC for items such as estuaries. The HC discussion resulted in a recommendation that identifying state waters as EFH is appropriate.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 15), to adopt a definition of EFH for the two species described in Agenda Item H.2.b, Supplemental NMFS Report, but recommends the descriptions go from the shoreline to the appropriate isobath rather than from the boundary of the EEZ along the entire coast.

Mr. Helvey mentioned the other species of krill and referenced Figures 16 and 17 under Agenda Item H.2.b, NMFS report. He noted that the species *Euphausia pacifica* has the larger EFH area and requested the motion be amended to include this definition, changed to go into the shoreline, for the six other species of krill. Maker and seconder accepted the friendly amendment.

Motion 15 passed.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 16) that the CPS FMP be amended to include all species of krill as a management unit species under a new category called “prohibited harvest” and establish krill EFH as shown in Draft Amendment 12 (Agenda Item H.2.b, Supplemental NMFS Report) as amended.

Ms. Vojkovich stated that states’ actions to ban krill in the past have laid the groundwork for this action. The amendment process does leave an option for future reconsideration should we have data and methods to identify population sizes and appropriate harvest or surplus levels. The EFH designation is appropriate, meets the requirements of MSA, and is built upon the best information we have on the most studied species.

Mr. Burner asked if the motion was intended to include all species of krill without any EFP provisions and could be stated as a motion for alternative 2. Ms. Vojkovich confirmed.

Mr. Roth, though not a voting member, said USFWS does lends its support to the motion on the floor. The motion represents proactive management for the Council and a step towards ecosystem management. He said that too often, the Council is left in a reactionary mode and krill is critical for many species, including seabird populations.

Mr. Helvey noted the motion is broader in scope but, it supports the intentions of NOAA's National Marine Sanctuary Program as it is consistent with what they have originally proposed.

Mr. Anderson asked if the issue of minimal incidental krill landings raised by the CPSAS and the EC be handled in the implementing regulations. Mr. Feder stated it could.

Ms. Vojkovich asked if she could address an issue regarding the objectives of the proposed language after the vote on this matter. Mr. Feder agreed.

Motion 16 passed.

Ms. Vojkovich referenced the language in Agenda Item H.2.c, CPSAS Report, specifically mentioning the second objective on page 4 of the Draft Environmental Assessment (Agenda Item H.2.b, NMFS Report). The CPSAS statements express concern that the objective is too vague and could be misconstrued to imply the objective of regulating fisheries for species that feed on krill. She asked if any other Council members had any concerns with this objective.

Mr. Burner said following the CPSAS meeting where the statement was drafted, he reviewed the November Council minutes and noted this objective was discussed by the Council then. He recommended the Council take a look at this second objective and consider some alternative language.

Mr. Burner read some proposed language from Mr. Fougner as a potential correction. The amended objective is suggested to read "Provide protection for key krill habitat areas (i.e., topographic and oceanographic features) that concentrate krill and facilitate predator feeding." Mr. Fougner will amend the paragraph that follows this objective to ensure it meets Council intent.

Dr. McIsaac asked Ms. Vojkovich to state how she would like this objective to read. Ms. Vojkovich thinks that at this stage of the development of Amendment 12, providing protection for key krill habitat areas would be the intent of our actions.

The Council was not interested in making a motion on HAPCs for krill at this time.

## **I. Marine Protected Areas (MPA)**

### **I.1 Fishery Regulation in MPAs within the Channel Islands National Marine Sanctuary (CINMS) through Magnuson-Stevens Act and State Management Authority (03/09/06; 8:05 am)**

#### **I.1.a Agenda Item Overview**

Mr. Burner provided the agenda item overview.

#### **I.1.b Northwest Hawaiian Islands Sanctuary Process**

Mr. Edwin Ebisui, Western Pacific Fishery Management Council (WPFMC) member, provided a PowerPoint presentation. (on file and on the web)

Dr. McIsaac thanked Mr. Ebisui for his testimony and asked about WPFMC and public participation in the development of regulations in the Northwestern Hawaiian Islands (NWHI). Mr. Ebisui stated that the WPFMC seat on the Reserve Advisory Council (RAC) was a non-voting seat. He was unsure of the amount of public comment taken by the RAC but noted that the WPFMC heard a great deal of public testimony in the development of its proposed fishing regulations. Dr. McIsaac asked if oil development

or cable placement were among the non-fishing activities to be allowed. Mr. Ebusui stated the primary non-fishing uses of concern are ecotourism and cruise ship operations with the potential for exotic species introduction.

Mr. Warrens noted that Oregon is considering a coastwide National Marine Sanctuary (NMS) and asked about the representation of the RAC and how that representation was established. The representation of the RAC was established by Executive Order and is made up of three native Hawaiian representatives, three federal scientists, a marine mammal scientist, a marine ecologist, a native marine flora and fauna scientist, an oceanographer, three representatives from non-governmental conservation organizations, one commercial fishing representative, one recreational fishing representative, one ocean related tourism representative, one community outreach and education representative, one citizen at-large, a representative of the State of Hawaii as appointed by the Governor, and one ex-officio non-voting representative from each of the following: Department of the Interior, U.S. Coast Guard, Department of Defense, State Department, NMFS, Hawaiian Islands Humpback Whale NMS, National Science Foundation, Marine Mammal Commission, and the WPFMC. Mr. Warrens asked about the voting privileges of the commercial fishing representative on the RAC. Mr. Ebusui stated the commercial fishing representative was a voting member but he recalled the RAC Chair had determined he was not allowed to vote due to a potential conflict of interest.

Mr. Harp thanked Mr. Ebusui for his testimony and asked how many of the fisherman in the NWHI were native Hawaiians. Mr. Ebusui stated there are currently two with two additional permits pending for native Hawaiian communities. In response to Mr. Ebusui's request for PFMC advice to take back to the WPFMC, Mr. Harp spoke for himself, and recommended the WPFMC hold the line and maintain their position.

Mr. Moore characterized the situation in the NWHI as one where NOAA was not supportive of the WPFMC recommendations that were based on public input and science and sent back a package with little or no room for compromise or revision. Mr. Ebusui shared his personal perspective, that NOAA seemed to be looking for WPFMC to "rubber stamp" the NOAA proposal. Mr. Moore further asked what agencies has the WPFMC been working with. Mr. Ebusui stated the NMSP, the National Ocean Service and on up the chain of command to Vice Admiral Conrad Lautenbacher.

Mr. Alverson asked where within NOAA there seemed to be the most conflict on the issue. Mr. Ebusui stated there seems to be a predetermined policy determination at a high level, above NMFS.

Mr. Williams asked about the rating system used to rank activities and their compatibility with sanctuary goals. Mr. Ebusui confirmed that the fisheries proposed to be closed by NMFS had a positive ranking indicating compatibility, making unclear why the fishery prohibition has been recommended.

Ms. Vojkovich stated that one of the positive aspects of working with NMS has been coordination on much needed research and the funding research requires, and asked if similar discussions in the WPFMC have occurred. Mr. Ebusui stated that research funding issues had not been discussed.

Chairman Hansen asked if all of the fisheries in the NWHI were covered under an FMP. Mr. Ebusui stated that they were covered and many of the fishing regulations called for in the NWHI have already been implemented through WPFMC FMPs.

Dr. McIsaac stated that in the case of the CINMS the PFMC did not have certain species such as abalone covered under an FMP. Mr. Ebusui stated that the WPFMC has moved towards an ecosystem approach and is replacing species specific FMPs. Ms. Cooney said there is a requirement to tie the action to a record (create a nexus) under a Council FMP in addition to confirming state regulations.

### **I.1.c NMFS Report (03/09/06; 8:52 am)**

Mr. Helvey provided the NMFS Report (Agenda Item I.1.c, NMFS Report).

Mr. Helvey clarified for Mr. Moore that extending state regulation into federal waters would involve a combination of matching state and federal regulations. Ms. Cooney reiterated that to take such federal action would require the establishment of a nexus or link to a Council FMP authority.

Dr. McIsaac referred to the option of extending state regulations under federal authority and the language in Agenda Item I.1.c stating the process of establishing the administrative record would need to confirm that California was still resolute in its management of the state waters and asked if confirming state intent would stand as sufficient administrative record. Ms. Cooney stated the administrative record would need to confirm California's regulations and establish a record to create a nexus under a Council FMP.

Dr. McIsaac asked Ms. Cooney of an example of a nexus to a Council FMP. Ms. Cooney explained the Council needs to develop a record of how the proposed action meets the specific goal of conservation and management of one of the fisheries under an FMP, involving more than a recognition or approval of state regulations or sanctuary goals.

Mr. Anderson reviewed the process by which Washington develops regulations under its state authority and asked how the development of the administrative record and a nexus to an FMP fits into the state and federal processes. Ms. Cooney noted that, like the states, the federal government does not have a blanket authority, rather the Council is specifically charged with implementation of its FMPs. The administrative record is needed to demonstrate why a given regulation is necessary and appropriate for implementation of one or more FMP. A NMFS action under any of the alternatives reviewed by Mr. Helvey needs to be linked to a necessary and appropriate need under and FMP. Ms. Cooney also said there would need to be a nexus to an FMP for any federal regulations but not for state regulations. If the closures at the CINMS were proposed to be achieved by a combination of state and federal authority, NOAA would ultimately determine either the combination of these two authorities meets the sanctuary goals, or additional regulations under the NMSA would be required.

### **I.1.d Reports and Comments of Advisory Bodies**

Mr. Ellis provided Agenda Item I.1.d, Supplemental HC Report. Ms. Kathy Fosmark provided Agenda Item I.1.d, Supplemental GAP Report.

### **I.1.e Public Comment**

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California  
Mr. Dave Bitts, PCFFA, McKinleyville, California

### **I.1.f Council Action: Consider Adopting Public Review Alternatives for Area Closures in the CINMS**

Mr. Burner reviewed the Council task as providing guidance on federal regulations in the CINMS, providing preliminary comments on the draft flowchart on MSA and NMSA regulatory processes, and providing guidance on MPA matters on the April Council meeting agenda.

Ms. Vojkovich, speaking to the CINMS issue, stated that the document NMFS has put together for us to consider is helpful for identifying possible ways to implement fishery regulations under the MSA. Even though some of them were interesting, she supports further looking at the suggestion under Section 4.0. of Agenda Item I.1.c, NMFS Report, and further referenced language on page 9 that "the basis would need to determine if the state of California's position on this matter is still resolute". She referenced several

letters sent between California and NOAA's sanctuary program, particularly a letter dated April 2005 stating that the designation of MPAs in federal waters should be a joint state and federal process and that California's position is that fishery authority in state waters resides with the California Fish and Game Commission and with the Council in federal waters. California's position has not changed. California supports implementation of these MPAs into federal waters to complement state MPAs, preferably through the Council, NMFS, and the MSA. California also states that, if this cannot be accomplished, the state would consider a designation document change and fishing regulation under the NMSA as a fall-back position. Ms. Vojkovich feels the October letter from Vice Admiral Lautenbacher (Agenda Item I.1.a, Attachment 3) represents support from NOAA leadership to continue to pursue fishery regulations under the MSA, the resolute priority position from California. Ms. Vojkovich noted there has been numerous discussions, workshops, and meetings to discuss MPA issues in our management arena over the last six years which should serve as an adequate administrative record. Ms. Vojkovich asked that Council staff document this Council history and work with NMFS staff to further explore the avenue of the extension of state regulations as a mechanism to achieve regulations under MSA and to identify areas where more work is needed.

Given that, Ms. Vojkovich moved and Mr. Ticehurst seconded a motion (Motion 17) to have the Council staff pull together the appropriate administrative record. In putting together the administrative record, guidance would be sought from the state of California, NMFS, and NOAA General Council in order to fill gaps and insufficiencies in the administrative record.

Mr. Warrens asked about California's support for the CINMS goals and objectives and asked if California saw an endpoint to this regulatory issue or if the Council can anticipate future proposals from the state or the sanctuary. Ms. Vojkovich said that California is interested in completing the current process and there is no intent for any future additional actions at this time.

Mr. Anderson clarified the Council's preferred approach would be to look at a combination of federal and state regulations that would accomplish the goals and objectives identified by the sanctuary. Council staff in conjunction with NMFS, will review and summarize the administrative record built over the last number of years and explore the extension of state regulations under the MSA. The Council would then need to make a decision at a future meeting on what combination of state and federal regulations is the most appropriate mechanism for achieving the federal portion of the MPAs.

Ms. Vojkovich agreed with Mr. Anderson's comments and stated the proposal would be to continue with the approach under Section 4.0 of Agenda Item I.1.c, NMFS Report.

Chairman Hansen stated that public comments to the Council have been overwhelmingly in favor of MSA authority over fishing and stated that this is what the Council will be pursuing.

Dr. McIsaac, reviewed the motion as Council direction to pursue alternative 4.0 under Agenda Item I.1.c, NMFS Report as an avenue to achieve MSA regulations and to have the staff put together the relevant administrative record currently in place and consult with NOAA General Council and NMFS. The resulting package would be brought back to the Council in April. Dr. McIsaac stated Council staff will make their best effort to include the package in the April briefing book.

Vice Chairman Ortmann said he felt the Council is engaged in an exercise of total futility that has been going on way too long but, he supports the motion because the public has asked us to do so.

Ms. Cooney said Mr. Feder will take the lead on this matter for NOAA General Council. Ms. Cooney reiterated that the administrative record needs to show how the proposed action ties to Council authority, and that NMFS will work with Council staff to put the record together. Motion 17 passed.

Chairman Hansen stated Motion 17 covers the issues of how to proceed with CINMS regulations and how to plan for the April 2006 Council meeting and asked for Council comments on the draft flowchart.

Mr. Anderson said he was one of 13 people on the January 30, 2006 conference call. Mr. Anderson noted he cannot verify the number of participants as one odd aspect of the call was only the facilitators could see who was on the call. There was an opportunity to participate in the conference call if you indicated your desire to comment by dialing a number and you were subsequently chosen by the call administrator to comment on the flowchart. Mr. Anderson stated he was contacted by the WDFW representative on the Olympic Coast National marine Sanctuary Advisory Council and was asked to participate in a subgroup to help develop the Sanctuary Advisory Council comments. The deadline for that subcommittee's recommendations is toward the end of March and the group will be meeting again soon to finalize recommendations. Mr. Anderson stated he would be happy to forward the results of these deliberations to the Council office and suggested the Council take the matter up again at the April meeting. He noted that one fundamental flaw in the NMSA flowchart was the presumption there was a trigger for fishery regulations and he thinks it comes far too late in the process. He said the bottom line is that this issue is not going to go away and the Council needs to develop sound coordination and communication with the sanctuaries as an important part of maintaining a primary role in fishery management.

Mr. Moore said the comments made by Mr. Anderson sound like the comments this Council has stated time and time again and he asked Mr. Anderson if the comments of the Sanctuary Advisory Council can be used as a basis for further Council input. Mr. Anderson said the comments he shared today were those he shared with the Sanctuary Advisory Council subgroup and that he would be glad to forward to the Council the final recommendations that come out of the Olympic Coast National Marine Sanctuary effort that he is engaged in.

Ms. Vojkovich said she was on the call but was told she would not be allowed to speak. She noted there is state involvement on this same issue, and supports Mr. Anderson's suggestion to look at the various Council and regional perspectives when drafting Council comments.

Mr. Anderson said that one reoccurring theme the Council has had at this meeting is to defer things to April. Mr. Anderson suggested putting together materials for an initial discussion at the April meeting to be followed by a subgroup process after the April meeting to hammer out the issues and provide final Council comments. Dr. McIsaac said Council staff will summarize our notes on the conference call and get any information we have in front of the Council and advisory bodies before the April meeting.

## **J. Highly Migratory Species (HMS) Management**

### **J.1 NMFS Report (03/09/06; 11:14 am)**

#### **J.1.a Activity Reports**

Mr. Mark Helvey provided the agenda item overview. Mr. Craig Heberer provided status of domestic regulatory activities, Mr. Helvey reported on international activities, and Dr. Gary Sakagawa reported on Southwest Science Center activities.

#### **J.1.b Reports and Comments of Advisory Bodies**

Ms. Michele Culver provided Agenda Item J.1.b, Supplemental HMSMT Report. Mr. Wayne Heikkila provided Supplemental HMSAS comments.

### **J.1.c Public Comment**

Mr. Peter Flournoy, International Law Offices, San Diego, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California

### **J.1.d Council Discussion**

Mr. Moore asked Mr. Flournoy to provide items regarding Inter-American Tropical Tuna Commission (IATTC) and IATTC General Advisory Committee (GAC) to the Council in writing. Dr. Dahl asked if the Council wanted to nominate anybody for currently open positions on the IATTC GAC.

## **J.2. Bigeye Tuna Overfishing Response (03/09/06; 1:13 pm)**

### **J.2.a Agenda Item Overview**

Dr. Dahl provided the agenda item overview.

### **J.2.b NMFS Report**

Mr. Helvey provided an overview of the management options in Agenda Item J.2.a, Attachment 1. It was noted that both the Pacific Council and the Western Pacific Fishery Management Council (WPFMC) were notified to take appropriate action to end overfishing. WPFMC is currently drafting Amendment 14 to their Pelagics FMP, which addresses overfishing of bigeye and yellowfin tuna. Bigeye is experiencing overfishing Pacific-wide and yellowfin is experiencing overfishing in the Western and Central Pacific Ocean (WCPO) only. The WPFMC is expected to transmit Amendment 14 to NMFS within the next few weeks; if approved, it will address overfishing for bigeye Pacific-wide. Mr. Helvey stated that NMFS is asking that the Council formally comment on Amendment 14, especially with regard to specific conservation recommendations for the EPO bigeye stock.

Mr. Helvey reviewed the management options contained in Attachment 1, describing the different options. Option 1 and 5 are the sideboards; option 1 is no action while option 5 would close all fisheries for bigeye under the Council's jurisdiction. The three other options propose measures intermediate to these sideboards.

The Chairman asked Mr. Helvey if the measures in options 2 and 3 are included in option 4 and Mr. Helvey responded affirmatively.

Mr. Moore asked, procedurally, how the Council would respond to a final Amendment 14 or other WPFMC action that the Council is diametrically opposed to. Mr. Helvey responded by saying it is unlikely any measures would be unacceptable, since they are likely to focus on management measures for the Hawaii-based longline fishing fleet; most of the issues this Council is proposing are for the purse seine fishery. Furthermore, Amendment 14 could be revised or refined to include the comments proposed by this Council, such as measures specific to the purse seine fleet.

Ms. Vojkovich noted that since WPFMC member Mr. Ebisui was at this meeting it would be nice if he could give us an overview of their goals and timeline. She also noted the Council had started an amendment process and wondered how to reconcile that with supporting the WPFMC's Amendment 14. Mr. Helvey replied that the Council's recommendations would also form the West Coast position for discussions at the upcoming IATTC meeting while also addressing the need for an FMP amendment. Ms. Vojkovich further asked about the process. Mr. Helvey replied that Council recommendations would focus on the Eastern Pacific Ocean (EPO), thus in combination with WPFMC recommendations potentially forming a Pacific-wide response to bigeye overfishing.

Ms. Vojkovich asked if the WPFMC would also provide recommendations for a U.S. position at the IATTC. Mr. Helvey replied that they had that option.

Mr. Anderson said he assumed that NMFS SWR and the Pacific Island Region were coordinating on this issue and asked if NMFS had indicated, of the five presented, which option they preferred. Mr. Helvey said that they support the HMSMT recommendation of a combination of options 2 and 3, which will address overfishing while still allowing the West Coast fishing opportunity.

Mr. Alverson, asked under what authority NMFS or the Council could “prohibit landings, transshipments, and commercial transactions of tuna products that have been positively identified as originating from fishery activities that disregard conservation and management actions of bigeye tuna” as stated on page 6 of the Agenda Item J.2.a. Mr. Helvey said it could be implemented under the Tuna Conventions Act.

Mr. Alverson then followed up on Mr. Moore’s earlier question by asking if there has been any formal allocation of management authority for this stock between the Council and the WPFMC. Mr. Helvey said that NMFS currently considers it joint jurisdiction.

### **J.2.c Reports and Comments of Advisory Bodies**

Ms. Culver provided Agenda Item J.2.c, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item J.2.c, Supplemental HMSAS Report.

### **J.2.d Public Comment**

Mr. Svein Fougner, Hawaiian Longline Association, Rancho Palos Verdes, California

### **J.2.e Council Action: Adopt Alternatives for a Pacific Council Position on an Overfishing Response for Bigeye Tuna for Public Review**

Mr. Edwin Ebisui was asked by Chairman Hansen to provide insight on the WPFMC Amendment 14. Mr. Ebisui said that the amendment can’t by itself solve overfishing Pacific-wide since the Hawaii longline fleet lands less than 2 percent of total catch. An important feature of the proposed amendment is establishing a control date to facilitate license limitation for additional domestic Hawaii fleets that catch bigeye tuna.

Mr. Moore asked about the composition of Hawaii’s tuna fleet and Mr. Ebisui described the various sectors catching bigeye. Mr. Moore then asked if any large purse seiners home port in the WPFMC region. Mr. Ebisui responded that they deliver to canneries in the region but didn’t know if they home-ported there.

In response to a question from Mr. Hansen Mr. Feder noted that Amendment 14 has been adopted by the WPFMC, but has not been transmitted to NFMS because the WPFMC is considering adding provisions to Amendment 14 to address overfishing of yellowfin tuna. Mr. Hansen then asked if this would be a good time for the Council to comment on Amendment 14. Mr. Feder replied that he thought that the WPFMC would welcome comments at any time before they transmit the amendment.

Ms. Vojkovich asked Mr. Ebisui about the management options in Amendment 14. There then ensued a discussion about those measures directed at domestic fleets versus recommendations to regional fishery management organizations (RFMOs) contained in the amendment document.

Dr. Dahl made comments to clarify Council action. Mr. Moore asked if the Council could adopt a preliminary preferred option at this meeting and Dr. Dahl replied that it would be possible. Mr. Hansen said he did not think he had enough information to do that at this time.

Dr. McIsaac confirmed that the Council could choose a preliminary preferred option at this time but recommended deferring the decision until the April meeting in order to allow further analysis of the options.

Mr. Moore said he felt that any option the Council chooses should include the measures under option 3, but more information and analysis are needed for final decision.

Mr. Alverson expressed concern about the proposal to exempt fleets catching less than 1 percent of the biegye total catch. This could establish a precedent that could be problematic if and when North Pacific albacore receives an overfishing/overfished declaration since albacore is a much more important West Coast HMS fishery. He asked the HMSMT to consider this issue further.

Mr. Anderson followed up with more questions about how the 1 percent exemption would work, such as how fleets would be defined (e.g., sub-nationally by gear type or by sub-national region). He also noted that option 2 has the provisions necessary to reduce impacts on bigeye tuna. He concurred that further analysis is needed to support a final decision.

Mr. Moore noted that the preceding discussion had been helpful in illuminating the issue to be addressed before the Council can make a final decision, which should occur at the April meeting.

Dr. McIsaac said that points brought up by the Council will be reflected in the briefing materials provided at the April meeting. He also noted that the North Pacific albacore issue will be put on the April agenda.

Ms. Vojkovich noted that this issue has been under consideration for some time but felt that the information provided at this meeting had provided greater clarity with respect to a Council decision.

### **J.3 Drift Gillnet Management**

#### **J.3.a Agenda Item Overview (03/09/06; 2:13 pm)**

Dr. Dahl provided the agenda item overview.

#### **J.3.b Highly Migratory Species Management Team Report**

Ms. Culver and Ms. Liz Petras provided Agenda Item J.3.b, Supplemental HMSMT Report.

Mr. Anderson asked for clarification on current DGN fishery closures and the estimated bycatch of blue sharks under Alternative 3.6, which the HMSMT had recommended as the preferred option. Ms. Culver described the current closed area and how the blue shark bycatch estimate was made. Mr. Anderson then sought clarification of the estimates of marine mammal take provided in Agenda Item J.3.a, Attachment 2. Ms. Petras responded by noting that the estimates represented take in addition to the baseline level and explained how fractional estimates are rounded to a whole number for the purpose of legal mandates.

Mr. Moore asked for further clarification about how the projected number of sets under each option was estimated and how to interpret the estimated values. Dr. Stohs emphasized that these effort estimates represent a worst-case scenario so that the actual effort may be lower than the estimate because of other binding constraints.

Mr. Moore asked if there is an associated range of likelihoods for these numbers that could inform the Council what is the worst-, medium-, or best-case scenarios. Ms. Culver referenced Table 4.4 (catch estimates of target and major non-target species) as a way of assessing the effects of each alternative.

Ms. Vojkovich asked for clarification of the historical level of fishing effort inside versus outside the leatherback sea turtle closed area. Ms. Culver said that during the 1990s, prior to implementation of the closed area between 1,500 and 2,500 sets occurred in that area annually.

Mr. Roth asked Ms. Petras about the information provided about the effect of the alternatives on seabirds. She replied that available information suggests that a shift of effort to the north, as would occur under the alternatives, may reduce impacts to the northern fulmar, but this conclusion is speculative.

Mr. Roth then asked Mr. Feder about the applicability of the Migratory Bird Treaty Act as discussed on page 160 of Attachment 2. Mr. Feder said that the Department of Commerce position is the Act does not apply beyond 3 nm. The USFWS (Department of the Interior) administers the Act and he didn't think they had issued a different interpretation.

### **J.3.c Reports and Comments of Advisory Bodies**

Dr. Kevin Hill provided Agenda Item J.3.c, Supplemental SSC Report. Mr. Heikkila provided Agenda Item J.3.c, Supplemental HMSAS Report.

### **J.3.d Public Comment**

Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California  
Mr. Steven Sharp, concerned citizen, Albany, Oregon  
Dr. Mary Pettenger, concerned citizen, Monmouth, Oregon  
Ms. Kathy Fosmark, Fishermen's Association of Moss Landing, Moss Landing, California  
Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California,  
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia  
Mr. Steve Fosmark, fisherman, Pebble Beach, California  
Mr. Tom Davis, Sea Turtle Restoration Project, Forest Knolls, California  
Dr. Robert Ovetz, Sea Turtle Restoration Project, Forest Knolls, California  
Mr. Chuck Janisse, Federation for Independent Seafood Harvesters, Bridgewater Corners, Vermont  
Mr. Ben Enticknap, Oceana, Portland, Oregon

### **J.3.e Council Action: Adopt Final Preferred Alternative to Modify the Drift Gillnet Time/Area Closure**

Mr. Helvey asked that SWFSC scientists Dr. Dale Squires and Mr. Scott Benson to provide perspective on the economic dimensions of the decision. Dr. Squires pointed out that the target species (swordfish) is a transnational resource, and multilateral cooperation is needed to address resource conservation issues such as take of leatherback sea turtles. If this domestic fishery is eliminated, their production of swordfish will be replaced by international fisheries that are less strictly regulated with respect to sea turtle take. Second, the domestic fleet can innovate to avoid impacts if provided the incentive. He give the examples of conservation measures in the purse seine fleet adopted to reduce dolphin mortality and the adoption of gear modifications by domestic longline fleets to reduce sea turtle take. The U.S. is now promoting such innovations internationally. Finally, he noted that domestic fishermen can directly address conservation issues related to their fisheries, giving the example of monetary investments made by the Federation of Independent Seafood Harvesters (the EFP applicant) in a turtle conservation project in Baja California, Mexico. In conclusion, he believes that a tightly regulated and monitored U.S. fleet is necessary and can have a beneficial impact under these conditions.

Mr. Benson briefly talked about leatherback sea turtle distribution, noting that this particular population is composed of multiple foraging populations. The population occurring off of California (which migrates from the Western Pacific) has declined over the years but not as much as the EPO population.

Ms. Vojkovich moved and Mr. Alverson seconded a motion (Motion 19) to adopt recommendation #1 from the HMSMT report as provided in Agenda Item J.3.b, Supplemental HMSMT Report, March 2006. That recommendation was the following: Adopt Alternative 3.6, with marine mammal take limits set at PBR rounded down to the nearest whole animal; with the marine mammal caps being used from revised Table 4.8.a (the PBR numbers rounded down to the nearest whole animal).

Ms. Vojkovich said this motion in its basic form was recommended by the HMSMT and HMSAS and appears to provide some fishing opportunity while establishing protections for more than just leatherback turtles (and other protected species). It has an added protection by rounding down the estimated take to the next whole number. The EFP under this proposal will allow a tightly controlled fishery unlike any other Council-managed fishery: it will have 100% observer coverage and very specific requirements. In summary, the EFP as implemented with the conditions in the motion is a reasonable attempt at allowing some the fishery to be prosecuted in an area it historically fished while evaluating if conditions have changed such that impacts are reduced.

Mr. Moore moved to amend the motion to substitute Alternative 3.6 with the additional restrictions with Alternative 3.7. Mr. Anderson seconded the amendment to Motion 19.

Mr. Moore said under normal circumstances he would follow the advice of the HMSMT and HMSAS and support the motion made by Ms. Vojkovich, but he thinks that all of us are somewhat troubled by the estimated increase in bycatch under this proposal. In addition, the number of sets allowed under Alternative 3.6 would likely be limited by observer availability anyway. The estimated impacts of Alternative 3.7 are much lower, although above the baseline north of Point Conception. His proposal allows a good balance between fishery participation, data gathering, and bycatch minimization.

Mr. Alverson noted that Mr. Moore's motion would result in about one-fifth the level of fishing effort of Alternative 3.6 and wondered if it would be viable. Mr. Anderson said that the groundfish arrowtooth and dogfish EFPs set minimum qualifications and was viable.

Mr. Helvey asked about the definition of bycatch being used in the discussion, pointing out that a large proportion of incidental catch is returned alive, on average about 60%. Mr. Moore pointed to the MSA definition, under which whether dead or alive any fish that is discarded is considered bycatch. Mr. Anderson said we need to look at the individual species, quantity, and survival rate to put the 60% average cited by Mr. Helvey in context. Survival rates vary by species and have to be considered individually.

Mr. Alverson asked whether DGN limited entry licenses issued by the State of California are eliminated if they are not renewed and Ms. Vojkovich confirmed that that was how the licensing program worked.

Ms. Vojkovich referenced the SSC Report, which did not recommend adopting a set limit, and asked why Mr. Moore's motion included one. He agreed that directly limiting take of marine mammals somewhat obviated the need for a set limit, but non-target species bycatch was still an issue that could be addressed by a set limit. He wanted to propose an alternative that stayed within the same boundaries recommend by the HMSMT and SST, while still having the general features of Alternative 3.

Ms. Vojkovich asked for clarification as to how the set limit would work in concert with the proposed take limits (for sea turtles and marine mammals). In response, Ms. Petras described the applicable procedures under the MMPA and the ESA if potential biological removal (PBR) or incidental take statement levels are exceeded. Mr. Anderson said that if caps based on PBR are included under Alternative 3.6 that would address the issue.

In response to a comment from Ms. Vojkovich, Mr. Moore suggested that a friendly amendment to his motion, to exchange the set limit for cap based on PBR, would be acceptable to him. Mr. Anderson, who seconded the motion, did not concur.

Ms. Vojkovich asked for clarification on the cap for sea turtles: did it apply to take or mortality? Dr. Dahl referenced the discussion in the HMSMT Report showing the correlation between mortality and take limits.

Mr. Ticehurst asked about the potential for a cap being exceeded because several vessels catch leatherback sea turtles simultaneously. Furthermore, he said he was troubled by an EFP with 20 to 40 participants, because of the bycatch implications. Although he might accept the motion for an EFP fishery, he would not support an expanded fishery if the experiment were successful. Therefore, he is not comfortable voting for the EFP in the first place.

Ms. Culver addressed Mr. Ticehurst's first comment by noting that the observers would check in regularly by satellite phone and information on takes would be shared with the fleet multiple times a day so fishing would be shut down immediately upon hitting the cap.

Ms. Vojkovich asked why the HMSMT did not recommend a set limit. Ms. Culver said under the alternative being considered, there is a chance that 300 sets could be expended without encountering any turtles. The tradeoff is forgone economic opportunity if more sets could have been realized before a turtle is taken. Having both limits is more precautionary. Ms. Vojkovich then asked about tracking the number of sets expended by participants. Ms. Culver responded it would not be difficult, given the limitations and the level of observer coverage being proposed.

Mr. Alverson asked for a friendly amendment to have the take cap for turtles set at two, and a "PBR cap" set at one for the following whales: sperm, humpback, minke, fin, and gray. If either cap is reached the EFP is over. The maker and seconder of the motion accepted the friendly amendment.

Mr. Harp asked Mr. Alverson for clarification of whether the caps applied to take or mortality and he responded that it would be either a take or mortality of the whales.

Ms. Petras said for PBR refers to serious injury or mortality. She pointed out that humpback whales have been observed as being taken (under the ESA) in the DGN fishery, but this may not constitute serious injury or mortality, because they can escape from entanglement without trailing gear; thus the takes is not counted against the PBR. It is important to understand that there are two different statutes with different definitions, take and PBR.

Mr. Alverson asked for a friendly amendment to add a PBR cap of one for short-finned pilot whale. The maker and seconder accepted the friendly amendment.

Ms. Vojkovich asked for clarification of all elements of the motion at this point. Dr. McIssac said the amended motion on the floor substitutes Alternative 3.6 for Alternative 3.7, includes a two-leatherback-turtle take cap and a one-take cap for sperm, humpback, minke, fin, gray, and short finned pilot whales. Mr. Moore clarified that the marine mammal cap refers to PBR rather than take.

Dr. Dahl asked for clarification as to whether the motion on the table retains the 300 set limit, which is a component of alternative 3.7. Mr. Hansen replied affirmatively.

Mr. Helvey said he plans to vote for the motion, but looking into the future he thinks the Council needs to address bycatch issues across all HMS fisheries.

Chairman Hansen called for the vote. Motion 19, as amended by the substitute motion, passed.

Dr. Dahl asked for clarification of one item under the last motion: did the sea turtle cap refer to take or mortality? A mortality limit of two equates to a take limit of three. Mr. Moore said he used Table 2-1 on page 19 in Attachment 1 to formulate his motion. Ms. Culver clarified by noting the reference to PBR is only for marine mammals, which refers to the cap of one for those whales that were listed in the motion. Mr. Moore said he had been thinking about how the various restrictions affected non-target bycatch when he formulated his motion, and saw that a lower cap also lowered bycatch. He worked from the information in Table 2.1 in Attachment 2.

Mr. Alverson discussed his understanding of the marine mammal and sea turtle caps. Ms. Culver references the HMSMT report to clarify the relationship between takes and mortalities. In their report the HMSMT recommended that the Council adopt a take cap so the observer doesn't have to determine potential post-release mortality. The Council concurred that the intention of the motion was to define the sea turtle cap in terms of two takes.

#### **J.4 Exempted Fishing Permit (EFP) Applications for Highly Migratory Species**

##### **J.4.a Agenda Item Overview (03/09/06; 6:07 pm)**

Dr. Dahl provided the agenda item overview.

##### **J.4.b Reports and Comments of Advisory Bodies**

Ms. Culver provided Agenda Item J.4.b, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item J.4.b, Supplemental HMSAS Report.

##### **J.4.c Public Comment**

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Steve Fosmark, fisherman, Pebble Beach, California  
Ms. Kathy Fosmark, fisherman, Pebble Beach, California  
Mr. Russ Nelson, The Billfish Foundation, Ft. Lauderdale, Florida  
Mr. August Felando, commercial purse seiner, San Diego, California  
Ms. Pam Lyons-Gromen, National Coalition for Marine Conservation, Leesburg, Virginia  
Mr. Chuck Janisse, Federation of Independent Seafood Harvesters, Bridgewater Corners, Vermont  
Mr. Peter Flournoy, International Law Offices, San Diego, California  
Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California

##### **J.4.d Council Action: Final Recommendations for Approving EFP Applications**

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 21) to preliminarily approve the EFP application as shown in Agenda Item J.4.a, Attachment 2, and direct the HMSMT to develop an environmental assessment, which would include harvest limits for protected species.

Mr. Moore mentioned the large amount of public testimony about the DGN and longline EFP applications. He felt that a transition from DGN to longline, as proposed in the application (Attachment 2) was warranted. Furthermore, the proposal was limited in scope, to one vessel, which can provide valuable data. With this information the Council can decide future management of the DGN fishery.

Mr. Ticehurst said he was opposed to the motion based on information on extant Atlantic and Pacific longline fisheries. A Council-authorized longline fishery would simply transfer bycatch of one species to some other species, such as tuna. He did not see why the Council should allow a new fishery catching very valuable species that U.S. policy is to not increase effort on. He disagreed that this proposal would

support a transfer of effort out of the DGN fishery. Longline is also a fishery California is opposed to and will catch economically important species, such as marlin. Targeting tuna is not a way to find a solution to the DGN fishery.

Mr. Helvey said he will vote in favor of the motion because he felt this EFP was a potential solution to reducing bycatch. Mr. Dupuy, the applicant, stated that he incorrectly included tuna as a potential target under the EFP; its principal purpose is to test a shallow set swordfish fishery. This will allow a comparison of bycatch between the logline and DGN fisheries.

Ms. Vojkovich said she would vote against a recommendation for the EFP, as she has done in past, although she commended the applicant for his persistence and his willingness to work within the system. The state of California has not supported a longline fishery and has not changed its policy.

Mr. Melcher said he appreciated Mr. Helvey's comments about the need to evaluate bycatch between the two gear types but was also sensitive to the concerns that have been voiced. Nonetheless he is in favor of the motion.

Mr. Alverson said one boat is involved, and impacts cannot be all that great. He said he was concerned about California's future policy positions and whether in light of that such a transition strategy would be feasible. He supports the EFP for a one-year trial, with possible reconsideration for subsequent years, but would like the Council to determine where they want to go with this.

Mr. Anderson noted WDFW's experience with a DGN EFP in the 1980s, which had an unacceptable level of bycatch; as a result the DGN fishery is closed off Washington. He said he was torn between his broader, regional responsibilities to the Council with respect to all marine resources in Federal waters and his state's experience. He noted that the applicant has immense experience in this fishery and is trying to learn more. He is offering his expertise to us to develop an alternative gear type that would replace DGN and allow commercial fisheries to occur in Federal waters. The Council will not get another opportunity to benefit from this level of experience. For these reasons he said he would vote for the motion. He also noted there will be substantial workload in developing the EA; and the EA may motivate the Council to not give a final positive recommendation for the EFP.

Motion 21 passed. Ms. Vojkovich, Messrs. Ticehurst and Thomas voted no.

## **PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS**

**Public comments on fishery issues not on the agenda are accepted at this time.**

Mr. Stephen Taufen, Groundswell Fisheries Movement. Spoke about ITQs.

Mr. Jim Welter, spoke about parasite issue in the Klamath and how it has affected stocks in the system. He told the Council there are parasites and diseases affecting the Klamath stocks.

Mr. Don Stevens spoke about the disaster declaration versus actual disaster relief (fisheries north of Cape Falcon). Spoke about how difficult it is to actually get the money to salmon fishermen and their families. He urged the Council to support the structuring of relief programs that would actually benefit fishing families and communities. Last time a disaster relief fund was put together, it did not benefit the fishermen in the manner advertised.

ADJOURN

The meeting was adjourned at 5:35 pm, Friday, March 10, 2006



**June 16, 2006**

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**Council Chairman**

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**Date**