

**MINUTES**  
**163rd Meeting**  
**Pacific Fishery Management Council**  
**April 8-12, 2002**

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## A. Call to Order

### A.1. Opening Remarks, Introductions (04/09/02; 9:05 a.m.)

Dr. Radtke opened the 163rd meeting of the Pacific Fishery Management Council at 9:05 a.m.

### A.2. Roll Call

Dr. Don McIsaac called the roll.

#### Members Present at Time of Roll Call

Bob Alverson  
Phil Anderson  
Burnie Bohn  
LB Boydston  
Ralph Brown  
Jim Caito  
Donald Hansen (Vice Chairman)  
David Hanson (Parliamentarian, non-voting)  
Jim Harp  
David Gaudet (Non-Voting)  
CPT Ted Lindstrom (Non-Voting)  
Jim Lone  
Jerry Mallet  
Hans Radtke (Chairman)  
Bill Robinson  
Tim Roth (non-voting)  
Roger Thomas

#### Members Absent at Time of Roll Call

Stetson Tinkham (Non-Voting)  
Obligatory Idaho Seat - Vacant

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

Dr. Don McIsaac provided the Executive Director's report.

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

Mr. Ralph Brown asked about the salmon scoping which occurred last meeting (target level harvest for Columbia River stocks - listing status). Mr. Brown said he did not see it on the agenda for this meeting. Dr. Don McIsaac noted that at the March meeting we did have scoping for Central Valley chinook issues; the others are June agenda items (June agenda to be formalized under Agenda Item G.4).

Mr. Donald Hansen moved and Mr. Jim Caito seconded a motion (Motion 1) to approve the agenda as shown in Exhibit A.4 with the addition of inserting advisory body comments and public comments under Agenda Item E.8., and the additional Hanford Reach issues presentation under Agenda Item B.1.

### A.5 - A.7 Commencing Remarks

Dr. McIsaac briefed the Council members daily on agenda items and evening meetings.

### A.8. **Council Action:** Approve September and November 2001 Minutes (04/12/02; 8 a.m.)

Mr. Brown moved and Mr. Caito seconded a motion (Motion 28) to approve the September and November 2001 minutes as shown in Exhibit A.8, September Council Meeting Minutes and Exhibit A.8, November Council Meeting Minutes.

## **B. Salmon Management**

### **B.1. National Marine Fisheries Service (NMFS) Report on Salmon Management (04/09/02; 9:22 a.m.)**

Mr. Robinson indicated that the only inseason action taken since the March Council meeting was opening of the non-Indian commercial salmon fishery between Cape Falcon, Oregon and the Oregon/California border on March 20, 2002.

#### **B.1.a. Columbia River Flow Issues**

Mr. Jim Ruff, NMFS gave an overhead presentation on the effect of 2001 Columbia River flows on juvenile fish migration and survival (Exhibit B.1.a, Supplemental NMFS report).

Mr. Don Anglin, U.S. Fish and Wildlife Service (USFWS), gave a PowerPoint presentation on the effects of water management issues on the spawning, incubation and rearing of Hanford Reach upriver bright fall chinook (Exhibit B.1.a.i, Supplemental Hanford Reach Presentation).

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

None.

#### **B.1.c. Council Discussion**

Mr. Tim Roth suggested the Council write a letter to the Federal Energy Regulatory Commission (FERC) requesting funding of a study to develop a quantitative assessment tool for determining the effect of flow management on production potential, spawning habitat and juvenile mortality for Hanford Reach fall chinook as a requirement for relicensing of the Priest Rapids/Wanapum projects.

### **B.2. Identification of Stocks Not Meeting Escapement Goals for Three Consecutive Years (04/09/02; 10:05 a.m.)**

#### **B.2.a. Agendum Overview**

Mr. Chuck Tracy gave the agendum overview.

#### **B.2.b. Report of the Salmon Technical Team (STT)**

Mr. Dell Simmons presented the STT report (Exhibit B.2.b, Supplemental STT Report).

Mr. Dave Gaudet indicated that the Pacific Salmon Commission's (PSC) Chinook Technical Committee (CTC) adopted an interim spawning escapement goal of about 20,000 adults for the upper Columbia River summer chinook.

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

### **Scientific and Statistical Committee (SSC)**

Dr. Pete Lawson presented the SSC report (Exhibit B.2.c, Supplemental SSC Report).

#### **B.2.d. Public Comments**

Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington  
Mr. Paul Englemeyer, National Audubon Society; Yachats, Oregon

B.2.e. **Council Action:** Identify any Actions Necessary Under the Council's Overfishing Review Procedure

Mr. Bob Alverson asked if the Columbia River summer chinook escapement objective of 80,000 to 90,000 adults is unrealistic. Mr. Bohn said the goal is misunderstood and that the original goal included both Snake and Upper Columbia River stocks combined. The CTC objective of 20,000 mentioned by Mr. Gaudet is only for the Upper Columbia River component.

Mr. Richard Lincoln, Washington Department of Fish and Wildlife (WDFW), indicated that the three stocks are exceptions under Amendment 14 criteria. WDFW is developing management plans for Grays Harbor chinook. He did not feel that Council action was needed at this time. Mr. Harp requested the co-managers report back to the Council with their progress on Grays Harbor fall and Queets spring/summer chinook by March of 2003. Mr. Lincoln agreed to bring a report next spring.

B.3. Methodology Review Process for 2002 (04/09/02; 10:45 a.m.)

B.3.a. Agendum Overview

Mr. Chuck Tracy gave the agendum overview.

B.3.b. Report of the SSC

Exhibit B.3.b, Supplemental SSC Report was provided by Dr. Pete Lawson.

Mr. Bohn asked why the Oregon coastal natural (OCN) coho prediction methodology should be prioritized lower than other methodology reviews since it was relevant to fishery constraints this year and most other recent years. Dr. Lawson indicated that spawner escapement was the driver on allowable impact levels, not pre-season abundance predictions, and as long as the relative abundance of OCN to Oregon Production Index (OPI) was small, the ocean impacts will not be a significant management issue.

Mr. Bohn asked if the review of effort estimates for Ft. Bragg could involve a broader area. Dr. Lawson indicated that the entire Klamath Ocean Harvest Model (KOHM) effort submodel should be reviewed.

Mr. Bohn inquired about the SSC priorities. Dr. Lawson indicated that all eight topics could not be completed this year, and that if information was available to review all eight, the SSC would need to get direction from the Council on setting priorities.

Mr. Boydston indicated the California Department of Fish and Game (CDFG) will work with Oregon Department of Fish and Wildlife (ODFW) to provide information for the KOHM effort submodel review and the coho impact model for California.

Mr. Brown requested the coho impact model review include fisheries south of Cape Blanco. Dr. Lawson indicated the SSC would take that into consideration.

Mr. Roth inquired about the scope of developing ocean abundance predictors for Columbia River fall chinook. Dr. Lawson indicated that no discussions had taken place between the SSC and the STT or co-managers, but some members of the STT indicated a potential willingness to pursue the issue.

Mr. Lincoln indicated that as early as 2003, selective chinook fisheries inside Puget Sound were a possibility, and that the chinook Fishery Regulation Assessment Model (FRAM) will need to be modified to accommodate that process. He indicated that by June 2002, WDFW will be able to update the Council and SSC on the status of model development and its availability for SSC review.

B.3.c. Recommendations of the States, Tribes, and Federal Agencies

**ODFW**

Mr. Bohn recommended that the SSC list should be kept intact pending development of information in time to meet the schedule for providing it to the SSC three weeks prior to the review meeting in October.

**CDFG**

Mr. Boydston concurred with Mr. Bohn's comments.

**Tribes**

Mr. Harp provided the following statement:

*The Pacific Northwest Tribes strongly support the recommendation for the SSC to review the chinook FRAM for mark-selective fisheries. The additional complexities introduced by a multi-age class model require careful review. Although the model may not be required to model fisheries under Council management, it could be used to model fisheries which supply important coded-wire tag information to the coastwide database.*

*The Tribes also support the recommendation to form Model Evaluation Sub-Committees for the FRAM models and are committed to providing personnel to participate in the processes.*

**USFWS**

Mr. Roth supported Mr. Harp's comments and Mr. Bohn's comments regarding keeping the list intact.

B.3.d. Reports and Comments of Advisory Bodies

Mr. Duncan MacLean presented the Salmon Advisory Subpanel (SAS) report (Exhibit B.3.d, Supplemental SAS Report).

B.3.e. Public Comment

Mr. Paul Englemeyer, National Audubon Society; Yachats, Oregon  
Mr. Duncan MacLean, F/V Barbara Faye; El Granada, California

B.3.f. **Council Action:** Establish 2002 Schedule and Methodologies To Be Reviewed

Mr. Boydston moved and Mr. Roger Thomas seconded a motion (Motion 2) to approve the methodology review process list for 2002 (Exhibit B.3.b, Supplemental SSC Report); including the narrative at the conclusion of the statement, noting the obligation of various parties to review materials well in advance of the October SSC meeting. Motion 2 passed.

B.4. Tentative Adoption of 2002 Ocean Salmon Management Measures for Analysis (04/09/02; 11:10 a.m.)

B.4.a. Agendum Overview

Mr. Chuck Tracy provided the agendum overview.

B.4.b. Summary of Public Hearings

Dr. McIsaac referred the Council to the Supplemental Public Hearing Reports 1 through 5 (Exhibits B.4.b., Supplemental Public Hearing Reports 1-5).

It was noted that Council Member Mr. Bob Alverson and Mr. Peter Dygert (in place of Mr. Bill Robinson, NMFS) attended the Westport, Washington hearing. Council Member Mr. Roger Thomas also attended the Moss Landing, California hearing.

#### B.4.c. Summary of Written Public Comments

Mr. Chuck Tracy summarized the written public comments found in the briefing book (Exhibit B.4.k, Supplemental Public Comment).

#### B.4.d. Recommendations of the U.S. Section of the Pacific Salmon Commission

Mr. Harp provided the report from the Pacific Salmon Commission Manager-to-Manager meeting (Exhibit B.4.d, Supplemental PSC Report).

#### B.4.e. Recommendations of the North of Cape Falcon Forum

### **WDFW**

Mr. Rich Lincoln indicated that negotiations with co-managers from Puget Sound and the coastal areas were progressing at an acceptable pace.

### **ODFW**

Mr. Guy Norman indicated Columbia River non-Indian negotiations resulted in consensus on inriver fishery allocation and further negotiations with tribal co-managers was progressing.

### **Tribes**

Mr. Harp concurred with Mr. Lincoln's summary of the north of Falcon meetings, and mentioned that the interior Fraser coho harvest rate objective of < 10% under the new PSC coho agreement was being met. He indicated that the ocean fishery options have been narrowed to the following: Option I for the non-Indian recreational and commercial fisheries for both chinook and coho; Option I for chinook and Option II for coho and for the 2002 treaty ocean troll fisheries.

#### B.4.f. Recommendations of the Klamath Fishery Management Council (KFMC)

Mr. Dan Viele presented the KFMC report (Exhibit B.4.f, Supplemental KFMC Report).

#### B.4.g. Update on Estimated Impacts of March Options (04/09/02; 1:15 p.m.)

Mr. Dell Simmons presented the STT report (Exhibit B.4.g, Supplemental STT Report).

Mr. Boydston inquired about the coho impact credit for the Washington non-Indian troll fishery 4 spread restriction. Mr. Simmons responded that there was no credit applied in the model, and that the restriction was voluntary.

Mr. Boydston requested information on what the base period years were that the coho contact rates south of Cape Blanco were based on. Mr. Mike Burner responded that they were based on the most recent years that coho retention was allowed.

#### B.4.h. Reports and Comments of Advisory Bodies (04/09/02; 11:30 a.m.)

### **SAS**

Messrs Mark Cedergreen, Jim Olson, Ron Lethin, Don Stevens, Jim Welter, Duncan MacLean, and Kurt Hochberg presented the SAS report (Exhibit Report B.4.h, Supplemental SAS Report).

Mr. Bohn questioned the earlier opening date of June 30 for the Westport recreational fishery when the other areas north of Cape Falcon opened on July 7. Mr. Cedergreen responded the objective for the Columbia River area is to prevent a closure between the end of the ocean season and the opening of Buoy-10. At Westport there is no inside recreational fishery and the earlier timing is designed to increase access to chinook and reduce coho impacts. In addition, chinook abundance declines by mid-August.

Mr. Boydston requested clarification on Klamath Management Zone (KMZ) recreational limit regarding the six fish in seven days restriction. Mr. Welter responded that the proposal was for no restriction as is the case for the rest of the coast.

Mr. Brown requested clarification on the Oregon/California border to Humboldt south jetty commercial fishery in August. Mr. MacLean responded that the fishery was not listed in the Exhibit, but that the SAS proposal consisted of an August 16 through the earlier of August 31 or 3,000 chinook quota, with a 40 fish per day landing limit, all fish caught in the area must be landed in the area.

B.4.i. Tribal Comments (04/09/02; 1:22 p.m.)

Mr. Mike Orcutt, Hoopa Valley Tribe, provided the following comments. The tribe has been involved in the habitat-related issues and have put their words to reality. The tribe has implemented a forest management plan that restricts timber harvest to protect fish. The tribe is actively involved in work on the Trinity River stream flows and will be in Court on that issue next week. Klamath flow issues are important to the tribe and they are assisting the Habitat Committee with drafting a letter regarding the upcoming biological opinion. He requested the Council put habitat first as well. Regarding the KFMC recommendations and Endangered Species Act (ESA) constraints, he was concerned that ESA constraints for other stocks were limiting Klamath chinook harvest by Hoopa Valley and Yurok tribal fishers within the Klamath River. He indicated the tribe will continue discussions with the KFMC, set harvest levels that are fair to the tribe and work with co-managers.

Mr. Harp provided the following comments:

*Mr. Chairman, I would like to make a brief statement regarding the tentative adoption of a quota for the ocean treaty troll fishery.*

*This year our coho stocks are down somewhat from last year and there are specific conservation concerns for OCN stocks and for Stillaguamish and Hood Canal coho.*

*For chinook we have a difficult task of meeting the very low exploitation rate objectives defined in our comprehensive Chinook harvest plan for Puget Sound chinook. We are very close to meeting those objectives with the fisheries we are currently modeling and I am confident we will be able fully meet them with a few additional fishery adjustments. We also have to be aware of the impact from our fishery on Columbia River chinook. We fully intend to live up to our commitment that we made in 1988 to not increase our impacts on Columbia River chinook stocks of concern. We have been in the process of establishing cooperatively with the WDFW a package of fisheries that will insure acceptable levels of impact on natural stocks of concern as well as providing opportunities to harvest hatchery stocks. In many cases we have not yet reached agreement on specific 2002 management measures but the tribes are continuing to work cooperatively with WDFW in hopes of finding successful outcomes. For the ocean treaty troll fishery I would like to offer the following treaty troll management measures for tentative adoption and analysis by the Salmon Technical Team: A treaty troll coho quota of 60,000 and a chinook quota of 60,000. This would consist of a May/June chinook only fishery and a July, August/September all species fishery. The chinook for analysis would be split 50% into each fishery, that being 30,000 in the May/June Fishery and 30,000 in the all species fishery. Gear restrictions, size limits and other appropriate regulations would be as stated in the previous Salmon Technical Team analysis.*

#### B.4.j. Agency Comments and Recommendations

##### **CDFG**

Mr. Boydston referring to Exhibit B.4.j, Supplemental Recopied CDFG and overhead from the Salmon Review - Figure III-1, indicated that coho contact rates south of Cape Blanco were based on years previous to 1994. He indicated the lack of scaling for relative abundance in the coho impact model is problematic in years of low coho abundance as has been the case recently, and results in very conservative coho impact estimates for 2002 south of Cape Blanco. He asked CDFG to work with ODFW and SSC members to revisit the methodology for estimating coho impacts in the models.

##### **WDFW**

Mr. Phil Anderson indicated there are still some outstanding issues with the Puget Sound, coastal and Columbia River tribal co-managers. He felt those issues could be resolved by Thursday.

##### **ODFW**

Mr. Bohn indicated that in order to meet the needs of lower Columbia River natural coho, other ESA constraints, ocean and Columbia River fisheries, the range of OCN impacts needs to be in the 10.5% to 12.5% range, and that Oregon is more comfortable with a maximum of about 12.0%.

#### B.4.k. Public Comments

Mr. Paul Englemeyer, National Audubon Society; Yachats, Oregon  
Mr. Bob Crouch, Klamath Coalition, Brookings; Oregon  
Mr. Dave Bitts, Pacific Coast Federation of Fishermen's Associations; Eureka, California  
Mr. Doug Fricke, Washington Trollers Association; Hoquiam, Washington  
Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington  
Mr. Paul Kirk, Klamath Coalition; Eureka, California

Mr. Brown asked if the surplus Klamath chinook resulting from current modeling of the KMZ recreational fishery was to be used by either eliminating the six fish in seven days restriction or by including a July 4<sup>th</sup> fishery. Mr. Kirk responded that the six fish in seven days restriction is a conservation measure, but more liberal than historical restrictions. He indicated the difference in opinion between Mr. Crouch and himself regarding the restriction probably reflects regional preference.

#### B.4.l. **Council Action:** Tentatively Adopt Management Measures for 2002 Ocean Salmon Fisheries

Mr. Anderson asked Mr. Doug Milward if the coho quota in the Cape Falcon to Leadbetter Pt. commercial fishery was attained prior to the closure of the season and the fishery continued as a coho nonretention fishery, is hooking mortality included in the STT impact analysis. Mr. Milward responded yes.

Mr. Anderson moved and Mr. Jim Lone seconded a motion (Motion 3) that the Council tentatively adopt for STT analysis the management measures for the non-Indian commercial troll and recreational fisheries north of Cape Falcon as described in Exhibit B.4.h, Supplemental SAS Report, April 9, 2002 with the following additions:

Table 1, under non-Indian commercial troll, U.S. Canada border to Cape Falcon, where it says July 1 through earliest of September 30, add a footnote indicating the area would likely close on September 8 unless additional funding is identified for port samplers. Under the second bullet in that same paragraph, the subarea quota is 7,500. On the second line in that paragraph add language that the subarea remains open for all salmon except coho when the coho quota is reached.

Table 2, under recreational, the U.S./Canada border to Cape Alava (Neah Bay Area), the third sentence, second line: change it to read "chinook non-retention east of Bonilla-Tatoosh Line during the July to September time period.

Mr. Tracy inquired if the SAS recommendation to open the Columbia Control Zone for the May/June recreational fishery was part of the motion. Mr. Anderson responded that his intent was to retain the closure to maintain consistency with the commercial fishery closure of the Control Zone.

Motion 3 passed.

Mr. Bohn moved and Mr. Brown seconded the motion (Motion 4) for the Council to tentatively adopt for STT Analysis the measures in Table 1 for the commercial fishery between Cape Falcon and the Oregon/California border, and the measures in Table 2 for the recreational fisheries between Cape Falcon and Horse Mt. (KMZ area) as identified. The six fish in seven days for the KMZ recreational fishery can be resolved at a later time.

Mr. Boydston requested a friendly amendment to the motion that for this analysis, the KMZ sport fishery the first open period be extended through July 4th rather than June 30th. Mr. Bohn asked if the amendment would be to estimate the additional coho impacts for the July 1-4 period. Mr. Boydston responded that the Klamath Coalition had testified that they would like a 4th of July fishery. He realizes there would be a cost in OCN impacts for that extension. The maker and seconder agreed to the friendly amendment.

Motion 4 passed.

Mr. Boydston moved and Mr. Thomas seconded the motion (Motion 5) that the Council adopt for STT analysis the measures in Table 1 for the commercial fishery from Oregon/California border to Mexico border with modifications suggested by the SAS. Specifically, in the Oregon/California border to Humboldt south jetty fishery, add August 16 to the earlier of August 30th or 3,000 fish quota and a 40 fish per day landing limit; strike the third sentence "state regulations require...."; include "all fish caught in the area must be landed in the area." In the Horse Mt. to Pt. Arena fishery change the July ending date to July 30th to allow for offloading; include "All fish caught in this area during July and August must be landed in the area"; Add "all fish must be delivered within 24 hours" for the quota fisheries. For Pt. Reyes to Pt. San Pedro, change October 15th to Oct 18th. For Pigeon Pt. to U.S./Mexico border, strike the sentence that starts "for 2003..." The option III circle hook definition is effective July 1, 2002. For the recreational measures on Table 2, include the following modifications: Horse Mt. to Pt. Arena change February 16 through July 17 to February 16 through July 7; change August 1 to July 20. The option III circle hook definition is effective July 1, 2002.

Motion 5 passed.

Mr. Harp moved and Mr. Anderson seconded the motion (Motion 6) to tentatively adopt for the ocean Treaty troll fishery, a Treaty troll quota of 60,000 coho, and 60,000 chinook consisting of a May/June chinook only fishery and a July/August/September "all species" fishery. The chinook quota would be split 50% into each fishery (30,000 in May/June and 30,000 in all species). Gear restrictions, size limits and other appropriate regulations would be as stated in previous STT analysis.

Motion 6 passed.

Mr. Harp then made the following comments:

*Our guidance to the STT is to model Alaskan and Canadian fisheries consistent with the recent information provided by Canada and the PSC Chinook Technical Committee. During the March Manager-to-Manager meeting, Canada provided projected catch information for southern British Columbia chinook and coho fisheries that should be used as model inputs. In addition, information was recently obtained from the PSC Chinook Technical Committee for fisheries in Alaska and North/Central British Columbia that should be used for modeling purposes. The participants of the North of Falcon process have also agreed to use these model inputs.*

Mr. Bohn moved and Mr. Brown seconded the motion (Motion 7) to adopt the tentative definitions for commercial and recreational gear as shown in Exhibit B.4, Attachment 1.

Mr. Boydston noted that the circle hook definitions would be changed as stated in the previous motion. Maker and seconder concurred.

Motion 7 passed.

B.5. Clarify Council Direction on 2002 Management Measures (If Necessary) (04/10/02;8:09 a.m.)

B.5.a. Agendum Overview

Mr. Chuck Tracy gave the agendum overview.

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

Mr. Dell Simmons presented the STT report (Exhibit B.5.b, Supplemental STT Report).

Mr. Bohn proposed removing the July 1-4 period from the KMZ recreational fishery, closing the Cape Falcon to Humbug Mt. commercial fishery an additional 6 or 7 days in July, reducing the non-Indian coho total allowable catch (TAC) north of Cape Falcon from 150,000 to 140,000, and trading the remaining 7,500 commercial coho to the recreational fishery.

Mr. Anderson noted that there is no allocation framework for OCN impacts, and that the challenge for the Council was to make additional cuts while minimizing lost fishing opportunity. Mr. Bohn responded that in 2001 the Council offered guidance for allocating OCN impacts using the relative percentage impacts on OCN occurring in 1999 and 2000.

Mr. Boydston requested that the SAS develop measures to reduce the overall OCN impact rate by 0.4%.

Messrs. Bohn and Anderson concurred with Mr. Boydston's request. Dr. Radtke then directed the SAS and STT to return at 1 p.m. with the results of their discussions.

**SAS** (04/10/02; 1:34 p.m.)

Mr. Mark Cedergreen presented the SAS report (Exhibit B .5.b, Supplemental SAS Report).

Mr. Alverson asked how the 22 days taken off the north of Cape Falcon non-Indian commercial fishery in September compare with the 6 days taken off the central Oregon commercial fishery in July in terms of OCN impacts. Mr. Cedergreen responded that the feeling of the SAS was that the 22 days represented quite a bit less reduction in impacts than the 6 days, but that the STT would have to give the definitive answer.

B.5.c. Public Comment

Mr. Don Stevens, F/V Starlite; Newberg, Oregon

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

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

B.5.d Council Guidance and Direction

Mr. Bohn suggested as a package: Eliminate July 3 from the KMZ recreational fishery; reducing the central Oregon commercial fishery by 6 days in July; reducing the north of Falcon (NOF) non-Indian commercial fishery in September by 22 days; trading of the entire 7,500 coho in the north of Cape Falcon non-Indian commercial fishery to the recreational fishery; reduce the total NOF coho TAC from 150,000 to 140,000; reduce the California KMZ commercial fishery by the equivalent of 0.1% OCN impacts; and reduce the central Oregon selective coho recreational fishery quota from 25,000 to 22,500.

Mr. Lone indicated that since Oregon has the greatest share of OCN impacts, they should contribute the greatest reduction.

Mr. Bohn reiterated that the shares of OCN impacts were similar to 1999 and 2000, and that proportional reductions would be fair.

Mr. Boydston observed that the KMZ recreational fishery is almost completely closed for coho impacts, and wants the July 3-4 fishery retained.

Mr. Anderson suggested reducing the coho TAC north of Cape Falcon from 150,000 to 140,000. He mentioned that requiring a trade between the commercial and recreational fisheries was not within the Council's authority under the salmon FMP, but must be the result of agreement between the affected parties within the SAS, which is not the case at this time.

Mr. Simmons indicated that the guidance was barely sufficient, and that with the given reductions, it is likely that the objective will be barely met if at all.

Mr. Lone requested the Council look for additional reductions.

Mr. Bohn suggested the STT model the agreed to 5 items as one package and the earlier package he described for comparison purposes.

Mr. Anderson reiterated that the trade was not appropriate without consensus of SAS.

Dr. Radtke directed the STT to model the 5 items only.

**STT (04/10/02; 5:30 p.m.)**

Mr. Dell Simmons presented the STT report analyzing the 5 items (Exhibit B.5.b, Second Supplemental STT Report).

#### B.5.d. Council Guidance and Direction

Mr. Boydston requested clarification of the OCN target from Mr. Bohn, both the numerical value and the nature of the target (e.g., ESA, key stock, etc.). Mr. Bohn responded that Oregon is most comfortable with something less than 12.3%, and the issue is both ESA and key stock. The Oregon state-ESA listed status of lower Columbia River (LCR) natural coho requires use of the federally listed OCN stock as a surrogate. The 12.5% value would meet the technical requirements of the Oregon recovery plan matrix, but would not provide any flexibility for Columbia River inside fisheries. The 12.3% value would provide flexibility for inside fishery management. He indicated the KMZ commercial fishery and central Oregon selective coho quota were the two pieces that could provide that flexibility at this point.

Mr. Robinson reiterated the federal OCN standard has been met. The management advice NMFS offered relative to lower Columbia River natural coho was for a range of 10.5% to 12.5%. His comfort level was closer to 12.0%, but did not consider that level necessary for approval.

Mr. Boydston was concerned about the contribution of northern and southern fisheries to a depressed stock with little or no information on the ocean distribution of that stock. He was receptive of including lower Columbia River (LCR) natural coho as a key stock in the FMP amendment process, and evaluating the stock status, but was concerned that at this point that has not been done.

Mr. Robinson agreed with Mr. Boydston's concern for the lack of information and conservation objectives for LCR natural coho. This concern extends to southern Oregon/northern California coastal coho.

Mr. Roth indicated there is some information regarding CWT recoveries of late Clackamas coho. Mr. Bohn confirmed this.

The next morning's agenda started with additional discussion of agenda item B.5.d; additional public comment was taken (Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington testified).

Mr. Bohn requested the STT model a reduction in the central OR coast selective coho fishery quota from 25,000 to 22,500.

Mr. Boydston asked if Mr. Bohn would consider asking the STT to adjust the quota to meet a specific target as opposed to specifying a quota. Mr. Bohn responded no, that 22,500 is the final quota.

B.6. Final Action on 2002 Salmon Management Measures (04/11/02; 1:46 p.m.)

B.6.a. Agendum Overview

Mr. Chuck Tracy gave the agendum overview (Exhibit B.6, Situation Summary).

B.6.b. Analysis of Impacts

Mr. Dell Simmons presented the STT report (Exhibit B.6.b, Supplemental STT Report).

Mr. Anderson corrected the no chum retention regulations in the commercial and recreational fisheries north of Cape Alava from July and August to August and September.

B.6.c. Comments of the KFMC

None.

B.6.d. Reports and Comments of Advisory Bodies

None.

B.6.e. Tribal Comments

Mr. Mike Orcutt indicated the Hoopa Valley tribe opposed the recent action the Council took on G.2 regarding proposed removal of the California tribal seat on the SAS. He felt tribal input and representation on the SAS was valuable. He urged the Council to reconsider its action. Regarding the salmon management measures, the tribe is concerned that not only federal but state ESA constraints impact the tribal shares.

Mr. Harold Blackwolf and Mr. Terry Courtney representing the four Columbia River Treaty Tribes gave the following testimony:

*Good afternoon Mr. Chairman and members of the Council. My name is Harold Blackwolf. I am a member of the Fish and Wildlife Committee of the Warm Springs Tribes. I am here today to present comments on behalf of the four Columbia River treaty tribes: the Yakama, Warm Springs, Umatilla and Nez Perce tribes.*

*The 2002 fall chinook forecasts in the Columbia are improved this year which should provide for reasonable fishing opportunities in river this year.*

*The Council heard a presentation from the National Marine Fisheries Service on Tuesday concerning the disastrous flow and spill conditions in the Columbia in 2001. Because of this, the tribes are very concerned about whether we will have any fish in the next few years. Already spring chinook jack counts are considerably less than long term average counts for this time of year. This is simply the first indication of possible problems ahead because of NMFS' failure to ensure the hydro-system minimize juvenile mortality.*

*The benefits of power generation in the Columbia basin to the non-Indian population has been great. The cost of this has been enormous to Indian people, both culturally and economically.*

*The presentation on Tuesday should make it clear to everyone that the NMFS Biological Opinion on the Federal Hydropower System is already a complete failure. NMFS obviously only expects fishermen to pay the price of conservation. In the next few years, treaty and non-treaty fishermen will pay the price for NMFS' failure to ensure the Hydropower system do its part for conservation.*

*During the presentation on Tuesday, NMFS indicated that they anticipate what they term "full Bi-Op spill" in 2002. This is not entirely accurate. They are not proposing spill at Lower Monumental Dam because repairs are needed for the spill apron.*

*Even the term "full Bi-Op" spill is misleading. The spill levels proposed in the Bi-Op are inadequate to protect juvenile salmon. The Columbia River tribes have proposed a 2002 River Operation Plan that includes more protective levels of spill. The federal government has so far refused to consider it.*

*Over the years, the Columbia River Tribes have proposed numerous strategies to ensure the recovery of salmon to harvestable levels. The federal government has consistently ignored us and both treaty and non-treaty fishermen pay the price.*

*The Federal government has the legal obligation under federal law **to restrict other** activities that impact listed species **before** restricting the Columbia River treaty Indian fishery any further. This must be done to **comply** with the conservation principles established in United States versus Oregon. **Until everyone**, Indian and non-Indian, can resume fishing at its full potential, we can not forget the work that we have to do **together** to recover all salmon and steelhead runs for our future generations.*

*This concludes my statement. Thank You.*

Mr. Mel Moon representing the Quileute tribe stated his support for retaining the California tribal seat on the SAS, and read the following statement:

*My name is Mel Moon. I am the director of Natural Resources for the Quileute Indian Tribe. I will first take a moment to outline our recommendation to PFMC for the Tribe's treaty troll fishery for 2002 and then another moment to comment on the Tribe's proposed recreational charter fishery.*

*This year the tribes have reached consensus regarding the 2002 treaty troll fishery and hereby recommend this plan for adoption by the PFMC. The tribes agree with an allocation of 60,000 chinook and 60,000 coho. The tribes recommend that a May/June chinook fishery occur with a subquota of 31,500 and a full coho release. The Tribes further propose that a July 1st - September 15th all-salmon species quota with 28,500 chinook or quota of 60,000 coho.*

*At the request of the state of Washington I am also here today to request that the Department of Commerce, through the National Marine Fishery Service, include provisions in the 2002 Salmon Fisheries Management Plan that would allow the tribe to conduct a charter fishing program on an experimental basis as part of the tribe's treaty fishing operations.*

*As you know, the Quileute Tribe historically has harvested the majority of its treaty share by means of commercial troll operations. However, due to the depressed price for salmon and the current glut of salmon on the market, it has become less and less profitable for tribal members to conduct commercial salmon fishing operations. Last year, the coastal tribes - the Quileute, Quinault, the Hoh and the Makah - did not even exhaust the tribal salmon allocation. Specifically, approximately 33,000 coho and 16,000 chinook were left uncaught by the tribes. Because of this economic reality, the Tribe has been actively pursuing other means of maximizing the economic value of its share of the salmon resource (i.e. added value). As you might know, the Quileute Tribe is self-regulating. Under its treaty, the Tribe has the right to determine the wisest and best use of its share of the common salmon resource and to determine when and how off reservation treaty fishing rights will be exercised. In exercising its discretion, the Tribe has determined that one potentially valuable opportunity for the Tribe and its members is to access the treaty share by means of a charter fishing program. I would like to take a few minutes to briefly explain how the program would work.*

*First, the Tribe has already adopted ordinances and regulations that govern the charter fishing operations. Under these ordinances, only enrolled Tribal members of the Quileute Tribe may operate charter fishing vessels. Quileute members wishing to operate charter fishing vessels must purchase charter fishing vessel licenses from Quileute Natural Resources and must comply with Quileute tribal regulations. Non-Indian passengers must purchase a Quileute Tribal fishing license and all proceeds go to the Quileute Tribe Scholarship Fund. All catches are attributable to the enrolled Quileute Tribal Charter Vessel Operator, who distributes the catch after reaching port. The charter vessel operator has responsibilities for record keeping and making fish available for inspection by Quileute Natural Resources. These ordinances were provided to the Council in Sacramento in March of this year.*

*Second, the Tribe acknowledges and understands that vessels operating charter fishing businesses would have to comply with applicable federal safety regulations, including licensing under Coast Guard regulations and other vessel-related rules. Tribal vessel owners have obtained the necessary Coast Guard licenses already and their vessels will comply with applicable federal laws.*

*Third, the expected customers for these businesses will obviously be non-Indians, for the most part. We believe that it is entirely appropriate for non-Indians to catch treaty fish if they are doing so in the context of a highly regulated charter fishery, as this one would be. The Ninth Circuit Court of Appeals has already held that the treaties between the U.S. Government and the Indian tribes guarantee the parties; right to dedicate portions of their allocation to recreational fisheries. U.S. v. Washington, 761 F.2d 1404, 1409 (9th Cir. 1985). There is no question that charter fishing operations have a long history in the state of Washington and that Indians have guided non-Indian fisherman for many decades.*

*Some have questioned whether non-Indians can participate in a treaty charter fishery, in light of certain language in a 25-year-old decision that related to who might "assist" in a treaty fishery. We do not believe that the treaty fishing right of the Tribe prevents the Tribe from having charter fishing operations, and we believe that the language of that decision grew out of a historical situation that is not operative here. In the 1970's, non-Indians were abusing Indian fishing rights by leasing tribal commercial fishing vessels and gear under the guise for "assisting" tribal members, and reaping the largest share of the profits from commercial fishing. That situation does not occur on the coast any longer, and would not apply to the charter fishing operations as the Tribe has structured it.*

*Specifically, tribal regulations require the presence and supervision of licensed enrolled tribal members, and all catches are attributable to these members who record and report the treaty catch. Passengers must pay a licensing fee to the Tribe, and all fees from the charter operation go the Quileute Tribe Scholarship Fund.*

*Lastly, this fishery will not create any conservation issues for the species. No impact analysis is necessary because recreational fishery impacts are significantly lower than troll commercial fisheries. We do not expect to take more than 1,000 coho or 1,000 chinook with this fishery. For 2002, the Tribe expects 2 fishermen to participate in this fishery.*

*In summary, the Tribe is informing the Council of its intentions per the State of Washington's request. On the other hand, however, the Tribe specifically requests that NMFS, and the Department of Commerce adopt provisions that allow the Tribe to conduct charter fishing operations as part of the 2002 salmon plan, and that any such fish caught during such operations to be considered "treaty fish." NMFS and the Department are both obligated to independently determine the extent of the Tribes's rights under the Treaty of Olympia, which is part of the governing federal law with which all federal agencies must comply. As federal agencies, each is charged with the trust responsibility to give full effect to the Tribe's treaty rights. We request that you do so here.*

*Thank you.*

Mr. Anderson indicated that the characterization of WDFW requesting the Quileute tribe to bring this proposal before the Council was incorrect. He described the two options discussed by Washington and the Quileute tribe, one being deducting the tribal charter catch from the treaty troll share, the other being deducted from

the non-Indian share. His understanding of Mr. Moon's testimony is that of requesting the Council to consider the Quileute proposal as deducting the tribal charter catch from the treaty Indian share. He emphasized that the Quileute's proposal was not at the request of the state of Washington.

Mr. Moon indicated that the Quileute tribe was not requesting the Council to consider the tribal charter fishery as part of its management measure package, rather the Tribe was notifying the Council of its intent to work with NMFS to implement the fishery.

Mr. Anderson reminded Mr. Moon of a state statute prohibiting non-Indian fishers to be aboard a boat engaged in treaty Indian fishing activities. He stated that the plan would require resolution of such issues.

Mr. Harp clarified the tribal recommendation was for 60,000 chinook divided into 30,000 in May/June and 30,000 in the all species fishery, rather than the 31,500 and 28,500 represented in Mr. Moon's testimony.

Mr. Gordon Smith, chairman, Makah tribal council read the following statement:

*The following statement is in response to the Quileute Tribes proposal to the Pacific Fisheries Management Council during the April 2002 meeting. That proposal was for a tribally-operated charter sport fishery where non-treaty fishers will be utilizing a portion of the treaty ocean troll coho and chinook salmon quotas. While we do not oppose the concept of a tribally-operated charter sport fishery we recognize that there is an appropriate legal process to initiate this new fishery. Prior logistical- and legal-related details must be worked out among federal, tribal, and state entities prior to the initiation of this new fishery, which we believe should then be presented to the Council for consideration at the beginning of the annual PFMC process. This did not occur prior to the 2002 management season. Consequently, in recognition of the work that has not been accomplished for this proposal to move forward the Makah Tribe must go on record at this time that we cannot support any tribal charter sport fishery proposal for the 2002 ocean salmon season.*

*Thank you for your time and consideration.*

Mr. Jim Harp read the following statement:

*Mr. Chairman,*

*As I indicated in my previous statements, the treaty tribes have been working on a package of fishery restrictions that meets resource constraints of this year's forecasted abundances and fairly distributes the burden of conservation.*

*The fisheries that the tribes have proposed thus far are consistent with this year's resource conditions, and take into account the need for each tribe to have some fishing opportunity in its area.*

*At the appropriate time, I will offer a motion for treaty troll quotas of 60,000 coho and 60,000 chinook.*

*This year the tribes have put forth a proposal for treaty troll quotas that provide some reasonable opportunity for all of the affected parties and meet the conservation needs for coho and chinook. The treaty troll quotas represent a balance of the treaty rights of the coastal tribes, as well as the four Columbia River tribes and the Puget Sound tribes given the conservation constraints of the many salmon stocks in 2002.*

*The proposed quotas for the ocean treaty Indian troll fishery meets the ESA considerations for Snake River chinook, OCN coho, and Puget Sound chinook.*

*The quota meets the commitment by the ocean tribes to the Columbia River Tribes in 1988 to not increase impacts on stocks of concern.*

*The quota levels also meet the coho management objectives for 2002 for the Washington coastal stocks.*

*The proposed quotas also meet the commitments made under the Pacific Salmon Treaty.*

*The impacts from the proposed treaty troll quotas are for the 2002 fishery and should not become a standard for future years.*

*This proposal for the treaty troll fishery is part of an evolving comprehensive package that includes Washington coastal in-river and Puget Sound fisheries.*

*The ocean treaty troll fishery presents a constrictive opportunity to exercise our treaty rights in the ocean this year. One must remember, the treaty tribes must exercise their treaty rights in their established usual and accustomed (U&A's) fishing areas, so the treaty troll tribes cannot simply move their fisheries to alternate locations in order to reduce impacts.*

*Thank You.*

#### B.6.f. Public Comments

Mr. Phil Leschowitz, Recreational Fishery Alliance; Seattle, Washington  
Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington  
Mr. Dave Bitts, Pacific Coast Federation of Fishermen's Associations; Eureka, California  
Mr. Don Stevens, Oregon Salmon Commission; Newberg, Oregon  
Mr. Jim Welter, Oregon south coast fisherman; Brookings, Oregon

#### B.6.g. **Council Action:** Adopt Final 2002 Salmon Management Measures

The following management measure recommendations were adopted using the following document: Exhibit B.6.b, Supplemental STT Report, April 11, 2002 (*Salmon Technical Team, Analysis of Tentative 2002 Ocean Salmon Fishery Management Measures*):

Mr. Anderson moved and Mr. Lone seconded the motion (Motion 21) to adopt for 2002 the management measures described on page 1 for non-Indian commercial fisheries north of Cape Falcon, including the requirements, definitions and exceptions that apply (pages 2 through 4); and on page 5 for the recreational fisheries north of Cape Falcon including the requirements, definitions and exceptions that apply (pages 6 and 7). The motion includes the corrected months for the chum retention prohibition of August and September for both non-Indian commercial and recreational fisheries north of Cape Alava.

Motion 21 passed.

Mr. Bohn moved and Mr. Brown seconded the motion (Motion 22) to adopt the regulations for the commercial and recreational salmon fisheries for the area of Cape Falcon to the KMZ with one exception; deletion of the six fish in seven days restriction in the KMZ recreational fishery.

Mr. Boydston stated that he did not support the exception. He felt that the public comment was consistently in support of the six fish in seven days restriction. He felt it was a new proposal and was not supported by the Klamath Coalition. He noted that six fish in seven days restriction was initiated by ODFW during the 80's and has survived in various forms as a means to broaden distribution of catch. Mr. Boydston said it would create a disparity in regulations between two closely situated ports (Crescent City and Brookings). He then stated removing the restriction is a step in the wrong direction in terms of providing access to Klamath chinook, and will increase hook and release mortality on coho salmon.

Mr. Bohn disagreed with Mr. Boydston's comments. He indicated there was testimony, including two members of the Klamath Coalition, in support of lifting the restriction, and there is no information indicating the restriction is intended to provide additional opportunity. Last year's discussion of a one fish vs. two fish bag limit resulted in the same conclusion, that there was no real effect on opportunity. If the restriction were eliminated in the Oregon portion of the KMZ, the entire state would have consistent regulations of two fish

per day with no weekly limit. Mr. Bohn indicated that if Mr. Boydston was unwilling to support his recommendation, he would modify his recommendation to drop the restriction in the Oregon portion of the KMZ.

Mr. Boydston refused Mr. Bohn's recommendations.

Mr. Bohn noted that Mr. Boydston's concern regarding consistency between ports would be satisfied if the restriction were lifted for the entire KMZ. He then noted the inconsistency between California and Oregon catch record cards, California with 86 records per card and Oregon with 20 per card, and the associated advantage in opportunity for California anglers in the KMZ.

Mr. Brown indicated that the KMZ is the only area with that type of restriction (six fish in seven days) on the entire coast.

Mr. Boydston, moved to amend motion 22; for the entire KMZ area retain the limit of six fish in seven consecutive days for the recreational fishery.

Mr. Thomas seconded the amendment to motion 22.

Mr. Boydston indicated the action was a coho conservation measure, consistent with closing the area for most of July.

Mr. Anderson noted that the options that went out for public review were six fish in seven days, and four fish in seven days.

Mr. Brown said that at the Coos Bay hearing, there was consistent testimony requesting lifting that restriction.

Mr. Lone asked the STT if OCN impacts would potentially increase if the weekly limit was raised from 6 fish to 14 fish. Mr. Simmons responded yes.

Mr. Bohn then noted the average catch per angler per day is probably about ½ to one fish per day, and the actual impacts were unlikely to increase.

Dr. Radtke asked for a roll call vote on the amendment to Motion 22. Messrs. Bohn and Brown voted no. The amendment passed.

Dr. Radtke asked for a vote on Motion 22. Motion 22 passed.

Mr. Boydston moved and Mr. Thomas seconded the motion (Motion 23) to adopt the recreational and commercial fisheries regulation as shown from Horse Mt. to U.S./Mexico border including requirements, definitions, restrictions, and exceptions, with one modification; retain the current language on circle hooks defined on pages 3 and 7 "a hook with a generally circular shape and point which turns inward, pointing directly at the shank at a 90 angle," without an effective date specified since the regulation is currently effective.

Mr. Boydston, indicated that enforcement and CDFG have reached agreement that more evaluation is needed of the benefits of the different hook configuration in terms of mortality of release salmon. There are subtle differences in the manufactured hooks, and CDFG is committed to work with the recreational fishers to evaluate the offsets in terms of hooking location. Next year CDFG will resolve the issue of circle hooks and decide whether the offset is critical or not.

Mr. Brown indicated that he opposed the motion since it had the "six fish in seven days restriction."

Motion 23 passed.

Mr. Harp moved and Mr. Lone seconded the motion (Motion 24) to adopt the following motion as displayed in writing and on the overhead projector:

*For the 2002 ocean salmon fishery in the area from the U.S./Canada border to Cape Falcon, Oregon, I move the following management structure be adopted by the Council for the Treaty Indian ocean troll fisheries:*

*The Treaty Indian ocean troll fishery would have a quota of 60,000 chinook and 60,000 coho. The overall chinook quota would be divided into a 30,000 chinook sub-quota for May 1 through June 30, and a 30,000 chinook sub-quota for the all species fishery in the time period of July 1 through September 15.*

*If the chinook quota for the May-June fishery were not fully utilized, the remaining fish would not be rolled over into the all species fishery. The treaty troll fishery would close upon the projected attainment of either of the chinook or coho quota.*

Motion 24 passed.

Mr. Boydston moved and Mr. Thomas seconded the motion (Motion 25) to adopt the gear definitions as defined in Exhibit B.4, Attachment 1; and authorize Council staff, NMFS, and STT to draft and revise the necessary documents to allow implementation of the recommendations in accordance with Council intent.

Motion 25 passed.

B.7. Mitchell Act Hatchery and Budget Review (04/12/02; 8:03 a.m.)

B.7.a. NMFS Report

Mr. Rob Jones and Mr. RZ Smith presented the NMFS report (Exhibit B.7.a, Supplemental NMFS Report).

Mr. Robinson noted that the ability to work with the administration is limited as they are not allowed to lobby and must respond to requests for information. NMFS supports the Mitchell-Act strongly - as a building block for maintaining the fisheries; and specifically supports mass-marking programs.

Council members held a discussion about funding and budget issues.

B.7.b. Tribal and Agency Comments and Recommendations

## **USFWS**

Mr. Lee Hillwig presented the USFWS report (Exhibit B.7.b, Supplemental USFWS Comments). He concluded by stating that USFWS is concerned about the long term impacts of flat funding and its effect on hatchery programs, harvest opportunities, and recovery of listed stocks. Some solutions noted are to develop specific goals for the program; identify specific priorities for these goals and objectives; continue reform of hatchery practices. Hatchery programs are under great criticism nationwide, and constituents could help by telling about how successful and important hatcheries are.

Mr. Roth asked NMFS if they would work with the stakeholders under *U.S. v. Oregon* to come up with goals and objectives in order to strengthen the request for funds. Mr. Robinson responded said yes; they would sit down with USFWS, states, and tribes to develop goals and objectives, and efficiency issues Mr. Anderson raised.

## **Tribes**

Testimony of the Columbia River Treaty Tribes Before the Pacific Fishery Management Council, April 12, 2002, Portland, Oregon:

*Good Morning Mr. Chairman and members of the Council. My name is Terry Courtney Jr. I am a member of the Fish and Wildlife Committee of the Warm Springs Tribes. I am here today to present comments on behalf of the four Columbia River treaty tribes; the Yakama, Warm Springs, Umatilla and Nez Perce Tribes.*

*The Mitchell Act was originally enacted in 1938 to "provide for the conservation of the fishery resources of the Columbia River." The Mitchell Act originated to mitigate for the production lost due to the construction of dams on the Columbia River. It is important to remember that this mitigation responsibility does not go away as long as the dams are in place.*

*As the Council considers its response to the letter from Congressman Dicks, the Columbia River Tribes request that the following points be included in the Council's response:*

*The Mitchell Act needs to be fully funded but also reformed. In 2001, the tribes supported funding the hatchery program at 36 million dollars. The tribes consider this amount a minimum appropriate level of funding. This money should be provided to the states and tribes as co-managers to jointly reform the Mitchell Act program using only jointly agreed marking programs. Nine million dollars or 25% of enacted funding should be contracted to the tribes for new or expanded supplementation projects. Additionally the Mitchell Act screening program should be funded at 20.6 million dollars for screens and passage programs as identified in the Federal Caucus Plan. Funding at any amount less than the tribes' 2001 recommendation would be inadequate to meet the needs of treaty and non-treaty fishermen dependent on these programs.*

*The tribes want Mitchell Act funds to produce fish "In Kind - In Place." By this we mean that funds should not simply be used for lower river programs. Most of the Mitchell Act hatcheries have been built in the lower river. In order to mitigate for lost up-river natural production, fish need to be produced in all parts of the basin. Additionally hatchery operations need to be reformed so that they can aid in restoration and utilize production to supplement natural runs. The last significant changes to the Mitchell Act program have come from tribal coho programs that were included in the Columbia River Fish Management Plan back in 1988. These coho programs have assisted in the restoration of naturally spawning coho in the Yakima, Umatilla, Klickitat, and Clearwater Rivers. These coho provide benefits to treaty and non-treaty fishermen alike.*

*Mitchell Act funds should be used for conservation and restoration purposes. Funds should not be used to mass mark fish so they can be caught in non-Indian selective fisheries. All fishermen, treaty and non-treaty should be able to benefit from this production.*

*In closing the tribes hope the Council recognizes the critical importance the Mitchell Act plays in almost all Council area fisheries. By supporting the tribal position on Mitchell Act funding, the Council can help ensure that all fishermen can share in the benefits of the program and the Council can help work towards restoration of salmon populations.*

*Thank you.  
This concludes my statement.*

Mr. Harp made comments for the Columbia River coastal tribes.

## **ODFW**

Mr. Bohn indicated the Council felt strongly in March this needed to be on the agenda for full discussion. Most of the decisions made this week on salmon seasons have been influenced by past reductions of the

Mitchell Act. The past cuts have resulted in lost production of about 27 million juvenile fish. Had those still been in the system, fully marked they would have benefitted today's fisheries. Every time you lose coho production, marked or not, we lose buffering opportunities. They would like to see a major movement to get funding for these hatcheries. ODFW will attempt to get funding for this.

## **WDFW**

Mr. Anderson echoed Mr. Bohn's comments. He noted Mitchell Act hatcheries restored opportunities for fisheries north of Cape Falcon. Chinook production is fueling those fisheries this year. The future is dependant on our ability to address the funding problem. We need to look at additional funds and ways to maximize efficiencies and work together in utilizing the funding. This is not going to be an easy fix in terms of asking Congress for more money; we have been doing that for years. The solution includes more than just looking for more dollars.

## **NMFS**

Mr. Robinson indicated it is important to remind folks it was initially a federal government obligation to compensate for the lost harvest and production from the taking away of "production areas" (dams, indirect reductions - habitat degradation, loss). At various times in the past, the states have tried to use their own money to maintain production as well. The states are not financially able to make up the difference now.

## **IDFG**

Mr. Mallet indicated Idaho sport fisheries have a major share in this; the only opportunity to fish for salmon is on hatchery stocks that are marked. Idaho has a longstanding selective fishery on marked stocks. He sees a general erosion of the Mitchell Act as an erosion on all the hatchery programs. He felt the marking program more and more are contributing to the fisheries as the wild stocks decline. This is a poor time in history to reduce the effort for any program that supports anadromous fish. He hopes the Council will do everything it can to promote the Mitchell Act.

### **B.7.c. Reports and Comments of Advisory Bodies**

## **SAS**

Mr. Mark Cedergreen presented the SAS report (Exhibit B.7.c, Supplemental SAS Report).

### **B.7.d. Public Comment**

Mr. Bob Crouch, Klamath Coalition; Brookings, Oregon  
Mr. Doug Fricke, Washington Trollers Association; Hoquiam, Washington  
Mr. Phil Leshowitch, Recreational Fishery Alliance; Washington  
Mr. Frank Urabeck, Northwest Marine Trade Association; Federal Way, Washington  
Mr. Don Stevens, Oregon Salmon Commission; Newberg, Oregon  
Mr. Butch Smith, Port of Ilwaco/Ilwaco Charterboat Association; Ilwaco, Washington  
Mr. Steve Watrous, Southwest Washington Anglers; Vancouver, Washington  
Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington  
Mrs. Frances Clark, Northwest Gillnetters Association; Chinook, Washington  
Mr. Doug Fricke, Washington Trollers Association; Hoquiam, Washington  
Mr. Kurt Hochberg, charterboat owner/operator; Benicia, California  
Mr. Tod Jones, Clatsop Economic Fisheries Project; Astoria, Oregon

### **B.7.e. Council Action: Consider Mitchell Act Hatchery and Budget Review Issues and Need for Formal Comments**

Mr. Roth recommended the Council write a letter to NMFS, with copies to the Northwest Congressional delegation, expressing support for a Mitchell Act budget covering all existing programs. He further

recommended the parties to *U.S. v. Oregon* develop goals and objectives for Mitchell Act programs. He also recommended the STT conduct a CWT analysis to determine the fisheries and contribution rates for Mitchell Act production.

Mr. Brown agreed with Mr. Roth's recommendations. He also noted that the public perception of hatchery fish is not entirely positive, which contributes to funding problems. He suggested the Council consider carefully the messages it delivers to the public.

Mr. Gaudet recommended that two letters be sent, one addressing the immediate needs for federal fiscal year 2003 and one for long-term funding security. Regarding Mr. Roth's proposal for having the parties to *U.S. v. Oregon* develop goals and objectives, he recommended that the Council and user groups be involved as well.

Mr. Bohn stated his support for Mr. Roth's recommendation for a letter to NMFS. Mr. Lone also stated he supported Mr. Roth's recommendation.

Mr. Anderson agreed both short- and long-term action was needed. He inquired as to the agenda for the April 30th meeting. He suggested using that meeting to form a group to develop a long-term strategy. Mr. Anderson discussed the letter from Congressman Norm Dicks (Exhibit B.7.c, Supplemental Congressional Comment). He indicated that Mr. Randy Fisher, Mr. Roger Thomas, and others will be in Washington, DC the following week and would like to meet with Congressman Dicks to answer the questions in his letter. He called on Mr. Doug Milward to present a preliminary analysis of the impacts of Mitchell Act mass marking programs on recent ocean fisheries.

Mr. Doug Milward indicated that the information he was presenting was preliminary and did not represent an analysis by the STT, which had not had the opportunity to review the analysis. He indicated that if Mitchell Act coho production contributing to 2001 and projected 2002 fisheries had not been mass marked, selective fisheries would need to be reduced by about 1/3 in order to meet the same OCN impacts levels.

Mr. Harp clarified that the tribes do recognize the benefit of hatchery fish both for harvest and potential use for aid and recovery. He indicated the tribes wished to work with the other parties to develop a vision for the Mitchell Act for the future.

Dr. McIsaac suggested the Council provide two letters, the first in response to Congressman Dicks letter addressing short-term needs, the second recommending a long-term strategy supported by a formal STT analysis of the contribution of Mitchell Act production to ocean fisheries. The second letter would be provided for Council consideration at the June Council meeting.

Mr. Roth indicated that Dr. McIsaac's suggestion fit in well with his recommendations. He also noted the Council should also be aware of other hatchery programs such as lower Snake River compensation and programs in California.

Mr. Robinson indicated NMFS would include a discussion to develop long term goals and objectives at the April 30th meeting. He also indicated that the sooner the Council can provide economic information on Mitchell Act contributions, the better for informing the public.

Mr. Anderson asked Mr. Robinson if soliciting participation in a development of a long-term funding strategy could be added to the April 30th meeting agenda. Mr. Robinson responded yes.

Mr. Thomas suggested Dr. McIsaac obtain from Mr. Fisher a list of the members who will be visiting appropriations members in Congress and send a copy of the response to Congressman Dicks.

Mr. Anderson recommended authorizing the Executive Director to construct and send the response letter to Congressman Dicks.

## **C. Habitat Issues**

### **C.1. Essential Fish Habitat (EFH) Issues**

#### **C.1.a. Agendum Overview**

Ms. Jennifer Gilden reviewed the situation summary and identified the main issues for Council consideration - the FERC letter and a proposed letter on Klamath River flows.

#### **C.1.b. Report of the Habitat Committee**

Mr. Stuart Ellis gave the report of the Habitat Committee (Exhibit C.1.b, Supplemental HC Report).

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

### **Tribes**

Mr. Dave Hillemeier, Yurok Tribe, encouraged the Council to send two letters regarding the Klamath River flow issues prior to the June meeting. There will be some important decisions made over the next two months that could affect Klamath flows for the next ten years. The Bureau of Reclamation (BOR) recently completed a biological assessment that proposes to put the Klamath river into perpetual drought conditions during almost all water year types. The main downfall of this is that it will harm riparian habitat necessary for salmon fry of ESA-listed species. Upper basin agriculture interests have been extremely successful in getting their case heard and making it seem like a "people vs. fish" issue rather than a "people vs. people" issue - agricultural interests vs. those who depend on a healthy ecosystem. He suggested the Council write to the Secretary of Interior to emphasize the importance of Klamath River water management and the effect it has on fisheries and communities. The second letter would be to the Secretary of Commerce regarding the Biological Opinion (BO).

Mr. LB Boydston said the states would often like to have more input into NMFS decisions. He asked Mr. Hillemeier if he had consulted with NMFS to see if he could provide input on the BO before the BO is issued.

Mr. Hillemeier said he had not received information from NMFS regarding what the recommended flows would be.

Mr. Boydston said he and his staff are ready to help if possible. It would be helpful to NMFS and eliminate surprises when the final opinion comes out. He urged NMFS to reexamine its policy regarding allowing the states to assist them in these types of things.

Dr. McIsaac asked if the Yurok Tribe or the Habitat Committee talked about adequate flows. Mr. Hillemeier replied the draft Hardy Phase II report represented the best available science on adequate flows. He noted that the Hardy Phase II report represented "leaps and bounds" in the science on flows.

Mr. Robinson noted Mr. Jim Lecky of NMFS Southwest Region (SWR) could provide information and a status report on the BO.

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

Mr. Dave Bitts, Pacific Coast Federation of Fishermen's Associations, Eureka, California, said there have been several years out of the past ten where there have been substantial kills of juvenile fish in the Klamath River related to poor water quality, high temperature, and low flows. He discussed the BOR's recommended flows and urged the Council to adopt and send the Habitat Committee's letter on Klamath flows.

Mr. Joel Kawahara, Washington Trollers Association, Seattle, Washington, voiced his support for the FERC letter and the Klamath flows letter.

Mr. Paul Engelmeyer, National Audubon Society, Yachats, Oregon, voiced his support for the FERC letter and the Klamath flows letter. He also emphasized the stranding study presented to the Council that morning demonstrated the critical nature of flows for salmon recovery, and urged the Council to write a letter supporting the funding of the stranding study. Mr. Engelmeyer also noted the Columbia River dredging issue is moving forward, with a revised biological opinion coming out soon, and he urged the Council to consider writing a letter on this issue.

**C.1.e. Council Action:** Consider Habitat Committee Recommendations and Take Action as Necessary

Mr. Boydston said he felt the FERC letter was well developed, and he concurred with the contents. He did not see anything controversial in the letter. He did ask whether references should be included in the letter. He felt that including references would help strengthen the letter. Mr. Boydston moved and Mr. Lone seconded a motion (Motion 8) to send the letter to the Federal Energy Regulatory Commission as attached in Exhibit C.1.b., Supplemental HC Report with references included in the letter.

Mr. Roth concurred with the letter and supported it. He noted that a lot of hard work had been put into developing a good letter. He also noted the Council needs to follow FERC relicensing issues and pointed out that flows and fish passage are extremely important for salmon management. However, the Council cannot follow all these actions individually. It would be prudent to concentrate efforts on relicensing actions that have particular impacts on the fisheries managed by the Council. He expressed his belief that the HC has plans to identify various relicensing actions as early as the June meeting. He mentioned the Priest Rapids dam relicensing and its effect on Hanford Reach flows; the Hells Canyon complex and how it affects listed Snake River fall chinook; the Klamath River project; Feather River and American River projects as they relate to fall chinook in the Central Valley basin; and several others. He said he expected the HC to help identify these issues and bring a list forward to the Council. He also strongly supported the fast track letter on Klamath flow issues.

Mr. Ellis said that the HC can get the references needed for the FERC letter.

Motion 8 passed.

Mr. Boydston moved and Mr. Thomas seconded a motion (Motion 9) to ask the HC to develop a quick response letter regarding Klamath River flows addressed to the Secretary of Commerce (SOC) and the Secretary of the Interior (SOI) for review before the June Council meeting.

Dr. McIsaac read the Council "quick response procedure." He noted that a quick response letter has not been sent for quite some time, because of the problems they can lead to, because consensus is not required. He also noted there are questions about what adequate flows are. Quick response letters can take quite a bit of staff time and can result in a situation where less than a majority of the Council members concur with the letter.

Mr. Roth said one of the issues that came up with the HC and caused concern among HC members was the BO that will be adopted appears to be for a ten-year period. There was concern we may get ourselves locked into a ten-year management scenario without using the best science to establish flow regimes. The letter should include a recommendation for a shorter period for the BO.

Mr. Lone asked whether the two letters mentioned by Mr. Hillemeier (to the SOC and the SOI) were the two letters being discussed here.

Dr. McIsaac noted that the motion was that the letter should be sent "jointly" to the SOC and the SOI.

Mr. Bohn said that from the Oregon perspective, it would be best if a fast track letter could be completed by tomorrow or the next day so it could go through the Governor's office and other reviewers. He expressed concern about the politics and the magnitude of the issues that might be in the letter. There is time between now and June to do this, but we would have to get started right now to get input from the Oregon delegation.

Dr. McIsaac said the intent of the quick response procedure is for the Council to articulate various points to be included in the letter, for the HC to clarify what adequate flows are, and for the Council to approve the intent of the letter. If there's no detail, it becomes problematic; four Council members can end up approving a letter that goes out from the full Council. He suggested revisiting this on Friday with more information from the HC.

Mr. Boydston suggested that he contact Messrs. Mike Rode and Dave Hillemeier and other representatives to craft some language for the letter, while allowing more time for the BO to be released. We could get this to the Council by Friday.

Mr. Bohn asked if the Hardy report was a draft or final report. Mr. Hillemeier said it was a draft report from the USFWS.

Motion 9 was tabled until Friday.

On Friday, Ms. Jennifer Gilden turned the Council's attention to Exhibit C.1.a, Supplemental HC Report 2. Mr. Stuart Ellis provided the report.

Dr. McIsaac asked Mr. Ellis whether it was absolutely necessary to hold off until the BO was released before sending the letter. Mr. Ellis said he felt it would be possible to send the letter today. The BO may adequately address some of the points included in the letter, which would be fine. The initial thinking was to react to the BO, but since the HC members from California have already spent quite a bit of time investigating this issue, the HC is comfortable these are important issues to cover, and the letter could be sent out as early as possible.

Mr. Brown asked for clarification about the name of the draft Hardy Phase II report. Mr. Ellis noted the report should be finalized soon.

Mr. Boydston thanked Mr. Ellis for preparing the list of points and asked the Council to hold off until the BO is released before writing the letter. He noted most of the people the letter would go to were in the room. He proposed taking the letter to his coordination meeting; it's an interesting internal consultation process. He said he would ask Mr. Rode to assist Council staff in drafting the letter. He asked whether asking for an extension of the NMFS BO comment period was a viable option.

Mr. Robinson said in the Section 7 process where a Biological Assessment (BA) is submitted and a BO is completed, there are consultations with the action agency. He was not aware of a comment period being part of the process.

Dr. McIsaac asked Mr. Boydston about his intention of bringing this list of points to a group next week and also developing a letter. He asked about authorizing a letter just based on the points listed in the outline. Mr. Boydston reiterated his feeling that it is premature to write a letter before seeing the BO.

Mr. Robinson, expanding on his last comment, said that although the BA/BO process does not provide a formal comment period, there is nothing to prevent you from requesting to comment on the draft BA/BO.

Mr. Boydston asked that we include in the letter a request for extending the comment period until after the June meeting. He moved that the Council staff work with appropriate staff in the states to draft a quick response letter following issuance of the NMFS BO addressing the issues contained in the exhibit (Exhibit C.1.a, Supplemental HC Report 2), but as modified depending on the BO, with the addition of a request for an extension on signing the final BO until after our June meeting. Mr. Caito seconded the motion. (Motion 26) Messrs. Robinson, Bohn, and Brown abstained.

## D. Marine Reserves

D.1. Review Process for Channel Islands National Marine Sanctuary (CINMS) and Update on Other Marine Reserves Processes (04/09/02; 3:16 p.m.)

D.1.a. Agendum Overview

Mr. Jim Seger reviewed the situation summary and identified that the main issue for Council consideration is how it intends to handle the state proposal and supporting documents for the creation of marine reserves in the state waters of the CINMS.

D.1.b. Agency Reports and Comments

### CDFG

Mr. Boydston felt it would be too difficult to put together anything coherent in a one-meeting process for providing comments to the California process. He talked about the workgroup composition as noted in the Situation Summary, Exhibit D.1. He added the HC to the group as well. He recommended the formation of the committee with the meeting dates as April 29th and possibly sometime between May 21 and May 23.

Mr. Boydston spoke to Exhibit D.1.b, Supplemental CDFG Overhead Presentation. This outlined the issues the committee would address if they meet on April 29th.

#### *REVIEW PROCESS FOR CHANNEL ISLANDS NATIONAL MARINE SANCTUARY MARINE RESERVES PROCESS*

#### *AGENDA/REPORT OUTLINE (APRIL 29 AND MAY 21 MEETING)*

1. *Overview by California Department of Fish and Game (CDFG)/Channel Islands National Marine Sanctuary (CINMS) Staffs*
2. *Legal Context - NOAA/Sanctuary Legal Staffs*
3. *Report Outline:*
  - a. *Background and Purpose (Scientific and Statistical Report)*
  - b. *Role of Council in West Coast Fishery Management and Marine Protected Areas (MPAs)*
  - c. *Council Strategic Plan and Progress to Date*
  - d. *CINMS Local Proposal in Context of Council Regional Fishery Management Plans*
    - i. *Groundfish*
      - A. *Rebuilding Plans (Overfished Stocks)*
      - B. *Bycatch Reduction*
    - ii. *Highly Migratory Species*
    - iii. *Coastal Pelagic Species*
    - iv. *Accuracy, Consistency, and Adequacy*
  - e. *MPA Proposal in the Context of:*
    - i. *Biodiversity*
    - ii. *Scientific Research (Reference Reserves)*
    - iii. *Marine Parks*
    - iv. *Other Considerations*
  - f. *Effect on Environment (California Environmental Quality Act and CINMS National Environmental Policy Act)*
  - g. *Conclusions and Recommendations*

## CINMS

Matt Pickett gave a brief update to the Council. If the Council decides to form a committee, the CINMS would give their support to that committee. The CINMS will not be pursuing creation of marine reserves in federal waters until after the state takes final action. He also emphasized that the size of the proposed reserves were very small compared to the total area managed by the Council.

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

## HC

Exhibit D.1.b, Supplemental HC Report provided by Mr. Stuart Ellis.

*The Habitat Committee supports the concept of creating a review committee such as the committee proposed in Exhibit D.1. If such a committee is formed, the Habitat Committee would be interested in providing a representative. The Habitat Committee feels it is important for the Council to be involved with the Channel Islands Marine Sanctuary process, because there are important links between potential marine reserves and Council responsibilities for groundfish rebuilding, essential fish habitat (EFH), and habitat areas of particular concern (HAPCs). Involvement will provide Council constituents a link into the marine reserve process, and helps ensure that fishermen's knowledge of the resources is incorporated into the discussion of marine reserves. Further, it will provide a framework for review of other marine reserve processes; and will facilitate communication between the Council and other entities proposing marine reserves. If the Council chooses not to convene such a committee, it should work to ensure that review of the Channel Islands Marine Reserves Process is incorporated into the existing Council advisory body structure.*

## GAP

Exhibit D.1.c, Supplemental GAP Report provided by Mr. Frank Warrens.

*The Groundfish Advisory Subpanel (GAP) reviewed the process for Council consideration of marine reserve issues and offers the following comments.*

*In general, we believe the Council needs to continue to take an active role regarding marine reserve issues in general and marine reserve proposals for national marine sanctuaries in particular. If the Council does not exercise its option to comment on sanctuary reserve proposals, then by default decisions on such proposals will be made at a level that allows little public comment. The Council forum is the best place for public involvement on the impact of reserve proposals on fishing to occur.*

*Further, the GAP notes there is no overall Council policy on how reserves will be integrated into the fisheries management process. Although reserves are identified as a tool in the groundfish strategic plan, how we use that tool in conjunction with other more traditional fisheries management measures is an issue that remains unclear. If the intent is to close off large areas of water to fishing, then expending effort on such tasks as inseason management or examination of other management measures is probably a waste. We are approaching groundfish management as a piecemeal process rather than a comprehensive examination of options.*

*There is also continuing confusion over the integration of the sanctuary process with California State law. A clear, agreed upon process needs to be established. There also needs to be a clear problem statement for reserves against which reserve proposals can be judged.*

*The GAP reviewed the draft proposal to establish a separate committee to review the Channel Islands and California documents that are being forwarded to the Council. As it has in the past, the GAP endorses the idea of having the work done by a separate committee. However, this endorsement is qualified, as the tentative committee structure provided to the GAP contains no representation of users. It is essential, in order to avoid the problems that have already occurred*

*with lack of user involvement, that the GAP have a minimum of two members as full participants on the committee. If such representation is not provided, the GAP opposes the formation of a separate committee.*

*In addition, the GAP understands that draft revised charts of marine reserve areas may have already been constructed by Channel Islands staff. The GAP believes those materials should be provided to the Council and the public as soon as possible.*

*Finally, California members of the GAP expressed concern over the way in which advisory committees were formed under the Marine Life Protection Act. Although this is a state issue and not a matter for the Council, the California members believe it should be noted as an example of how the public perceives their participation is being denied.*

## **SSC**

Exhibit D.1.c, Supplemental SSC. Report provided by Ms. Cindy Thomson.

*Mr. Jim Seger briefed the Scientific and Statistical Committee (SSC) on the current status of marine reserves at the Channel Islands National Marine Sanctuary. The State of California is developing a California Environmental Quality Act (CEQA) document and is requesting that the Council form a committee to review the document. The committee, consisting of Council members and members of Council advisory committees (including the SSC), would meet on April 29 and perhaps again in May. The exact charge of the committee is not yet defined.*

*If the purpose of the proposed review committee is to evaluate the scientific content of the CEQA document, the SSC requests that its Marine Reserves Subcommittee have the opportunity to conduct a full review of the document. If the Council agrees with this suggestion, the SSC requests it be provided with state guidelines for how such documents should be reviewed. Given the Council's public meeting requirements and the expected length of the CEQA document, the SSC notes that a technical review would take significant time to complete and could not be accomplished by April 29.*

*If the purpose of the review committee is to determine consistency with the Magnuson-Stevens Fishery Conservation and Management Act and with Council fishery management plans, the SSC suggests that one of its members attend to observe the review committee's April 29 meeting and report back to the SSC. Scheduling conflicts with other meetings will make it impossible for the SSC economists and most of the SSC groundfish biologists to participate in the April 29 meeting. However, the SSC would ensure that at least one of its members would be available to participate.*

*The SSC understands it is the state's prerogative to make decisions about marine reserves in state waters, and the CEQA document may not be fully reviewed in the Council process. However, it is important to note that Council consideration of the CEQA document is not a substitute for full review of the National Environmental Policy Act analysis regarding effects of reserves in federal waters once that becomes available.*

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

Ms. Heather Munro, Munro Consulting; Waldport, Oregon  
Mr. Joel Kawahara, Washington Trollers Association; Seattle, Washington  
Mr. Greg Helms, Channel Islands Office of Ocean Conservancy; Santa Barbara, California  
Mr. Darby Dickerson, F/V Maverick; Port Angeles, Washington

### **D.1.e. Council Action: Provide Direction for Review of CINMS Proposal**

In response to Ms. Bloeser's comments on the need for the Council to be proactive, Dr. McIsaac noted in the groundfish strategic plan, marine reserves are a management tool for groundfish. The Council has put forward a significant budget request that would allow the Council to take a lead role in consideration of

marine reserves. Mr. Anderson noted that if the Council is going to provide a leadership role with respect to marine reserves, the Council needs to integrate with other processes as they consider marine reserves. The Council needs to take a leadership role to try to achieve that integration in order to ensure a solid integration of our FMPs with marine protected areas (MPAs) and joint ownership in the outcome of consideration of marine reserves. Those other processes will go forward with or without the Council. The Council should use the CINMS process to begin to set its direction.

There was a discussion of likely responses to no action by the Council or an action with which the CINMS program might disagree. Ms. Cooney reviewed the National Marine Sanctuaries Act, the standards by which a Council recommendation would be evaluated, and the option for the SOC to proceed with marine reserves in sanctuary areas in the absence of Council action.

Council members identified that both policy and science issues were covered in the proposal for topics to be addressed by the review group, presented by Mr. Boydston. Concern was also expressed about the size of the committee that had been proposed, the amount of work that would be required between now and June to support the committee, competition with other Council activities, and the shortness of time for the review. Mr. Boydston expressed reservation about the CFGC's ability to meet its target of taking final action on this issue by August.

There was a discussion of whether to have a single committee or to accept the SSC proposal that it's Marine Reserves Subcommittee review the scientific merit of the CDFG California Environmental Quality Act (CEQA) documents. After extended discussion on the appropriate size and expertise needed for a committee Council members concurred that they would take the next few days to reflect on the issue.

The Council took up this issue again on Thursday afternoon at 3:45 p.m. It was agreed that the SSC Marine Reserves Subcommittee would conduct a review of the scientific and technical merits of the CEQA analysis. Additionally, they will evaluate the document for its compliance with National Environmental Policy Act (NEPA) standards. Mr. Boydston noted that the NEPA standards were quite similar to the standards for documents produced to meet the CEQA requirements. In order to provide the SSC sufficient time to review the documents, they will have to arrive at the Council office by May 15. At the time Mr. Boydston forwards the documents to the Council he will send them directly to the SSC. The SSC subcommittee will hold a one to one-and-a-half day meeting sometime between June 3 and 13. Advisory panels will have an opportunity to review documents at the June Council meeting. Between the June and September Council meetings, a special policy review group may be constituted to develop draft comments for the Council's September meeting. The Council will make its final recommendations in September 2002. This schedule is based on the willingness of the California Fish and Game Commission (CFGC) to delay its final action past August, 2002.

## **E. Groundfish Management**

### **E.1. NMFS Report on Groundfish Management (04/10/02; 8:28 am)**

Mr. Robinson gave an update on regulatory actions taken by NMFS since the last Council meeting. He also spoke to Exhibit E.1, Attachment 1. They also filed two exempted fishing permit (EFP) notices today in the *Federal Register*.

#### **E.1.a. Marine Recreational Fisheries Statistics Survey Update**

Mr. Russell Porter, Pacific States Marine Fisheries Commission (PSMFC) and Chairman of the Recreational Fishery Information Network (RecFIN) Committee, provided the a Marine Recreational Fisheries Statistics Survey (MRFSS) update. With respect to the effort log and sampling program for California charter vessels they were getting considerable cooperation but still have some vessels that do not want to participate. RecFIN will use estimates from the charter/party boat survey in California as well Washington and Oregon state sampling programs in generating the catch estimates it will provide to the Council at its June 2002 meeting. California has put more state effort into the sampling program and MRFSS hopes to soon be able to move to a system that would use angler license database as the sample frame for the phone survey.

Implementation of an electronic licensing system in California will be needed before this move can be completed. Funding for the MRFSS program is about \$340,000 short of what is needed to sample for the entire year. At present funding levels, sampling in November-February will be discontinued. The Council agreed to send a letter supporting funding sufficient to allow year-round sampling. Mr. Porter indicated that a meeting has been set for June 25-26 in San Diego, California to address management of recreational fisheries with quotas.

**PUBLIC COMMENT PERIOD  
4 P.M.**

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

Mr. Kenyon Hensel, Crescent City, California. Spoke to the slope shelf and nearshore fisheries set-asides (allocation issues).

Mr. Rhett Weber, Westport Charterboat Association, Westport, Washington Spoke about the yelloweye rockfish overfished issue. Talked about his diagram titled "4 PM Public Comment, Yelloweye Release Devise Diagram, April 2002".

Ms. Laura Deach, longliner, Lopez, Washington. Fixed gear sablefish permit holder. Asked that we add to amendment 14 the ability to stack more than three permits. The issue is related to E.3.a. Placing a fixed number of permits, restricting the number of permits - stacking eliminates the number of trip limits and reduces catch. She spoke to the original stacking program. Her letter with the constituent signatures is on file at the Council office.

Mr. Anderson asked about possible errors in the conversion of number of fish to pounds. Mr. Porter said that some of the historic data needs to be recalculated.

E.1.b. Observer Program Update

Dr. Elizabeth Clarke, NMFS. Survey activities will begin in June, they are looking for another vessel. Fixed gear survey along Oregon/Pt. Conception. She will be having a meeting this evening at 6 p.m. to discuss research priorities and cooperative research surveys and planning. They are pushing their surveys south of Pt. Conception this year.

E.1.c. 2002 Whiting Fishery (04/10/02; 5:00 pm)

Mr. Robinson referred the Council to Exhibit E.1.c, Supplemental Attachment 3. This contained a letter from NMFS to Dr. Radtke notifying the Council that NMFS has disapproved the Council recommended Pacific whiting specifications for 2002. NMFS implemented by emergency rule, a whiting ABC based in the risk neutral medium recruitment scenario and an  $F_{40\%}$  harvest rate, which results in a U.S. ABC of 166,000 mt. The OY, the ABC with the application of the 40:10 harvest policy is 129,600 mt. The non-tribal commercial OY for whiting is 106,920 mt (129,600 mt subtract the 22,680 mt tribal allocation).

Mr. Robinson made comments that NMFS wants to participate in developing better partnerships and working relationships with the Councils. He did not want to make this speech very often, apologized for not articulating as clearly as he can the NMFS appropriate standards. NMFS did not accept the harvest policy in the STAR report to go to  $F_{45\%}$ . They did stick with the  $F_{40\%}$  and 40:10 policy, but the best available science supported the medium recruitment level. This emergency rule becomes effective when published for 180 days and will need to be renewed sometime in the fall in order to finish out the year.

E.1.d. Reports and Comments of Advisory Bodies

**GAP**

Exhibit E.1.d, Supplemental GAP Report provided by Mr. Moore.

E.1.e. Public Comment (04/10/02; 5:17 p.m.)

Mr. Rod Moore, West Coast Seafood Processors Association; Portland, Oregon  
Mr. Phil Kline, American Oceans Campaign; Washington, DC  
Ms. Karen Reyna, The Ocean Conservancy; San Francisco, California  
Ms. Karen Garrison, NRDC; San Francisco, California  
Mr. Steve Bodnar, Coos Bay Trawlers Association; Coos Bay, Oregon

E.1.f. Council Discussion on NMFS Reports on Groundfish Management

Dr. McIsaac spoke to Mr. Porter's request for a letter from the Council regarding the Marine Recreational Fisheries Statistics Survey (MRFSS) needs. Council consensus was okay to construct a letter. Mr. Thomas said that some of them will be in Washington, DC for other reasons. Mr. Anderson requested, if the letter gets constructed next week, that a copy be faxed to him as he too will be in Washington, DC. Chairman Radtke replied yes, the completed letter will be faxed to all Council members.

The Council then turned their attention to the whiting issue.

Mr. Bohn said NMFS should reflect on how this unfolded, give us more specific guidance way before the options are crafted - get all the information out on the floor (similar to salmon). Seems like we wasted a lot of time.

Mr. Anderson said that he had the same concerns Mr. Bohn had; the information was out there, NMFS had a role in all of those different forums. The decision came down to the '99 year class. He is concerned that if there are those kinds of red flags out there within NMFS, you should let us know, that would have allowed us to go back and have another discussion. He asked if that opportunity could be provided if NMFS has "red flags" on the decisions the Council makes.

Mr. Robinson said that follows the line of thinking he had himself, what could we have done to avoid this, NMFS could have done a better job of articulating at the beginning what we thought was the best available science.

Dr. McIsaac asked about the synchronization of developing the rebuilding plans with the season management measures. Mr. Robinson said he will have to meet with those involved. Dr. McIsaac noted in an ideal world we would have the rebuilding analysis for us at our next meeting? Mr. Robinson replied yes if we could.

E.2. Groundfish Strategic Plan Implementation (04/10/02; 9:03 a.m.)

E.2.a. Agendum Overview

Mr. Dan Waldeck reviewed the agenda item. He noted this topic covered three ongoing Strategic Plan initiatives: stacking of groundfish trawl permits, issuing permits in the open access groundfish fishery, and delegation of nearshore management authority to the states. He reviewed the briefing book material and highlighted that this was a discussion and guidance item, i.e., no Council action was anticipated.

### E.2.b. Report of the Ad Hoc Trawl Permit Stacking Work Group

Mr. Pete Leipzig presented Exhibit E.2.b, Trawl Permit Stacking Work Group Report. The work group met on February 26, 2002. The Work Group:

- (1) Developed a draft problem statement and goals and objectives.
- (2) Identified major alternatives that should be considered as part of the analytical package.
- (3) Agreed on a number of key provisions for the trawl permit stacking program.
- (4) Requested analysis on the effect of various implementations of trawl permit stacking on vessel cumulative limits.
- (5) Identified a number of key trade-off considerations that should be taken into account in developing permit stacking options.
- (6) Planned its next meeting for fall 2002.

During his report, Mr. Leipzig emphasized, while the Trawl Permit Work Group will continue work on developing a stacking program, the work group prefers capacity reduction either through a buyback program or an individual fishing quota (IFQ) program. He noted these latter two items are beyond the purview of the Council, but stresses Council support would be helpful. Because of workload, a stacking program could not, realistically, be implemented until 2004. He suggested there may be opportunity to develop an IFQ program if Congress were to lift its moratorium. The work group sought guidance about whether they should simply focus on stacking or if they should also do groundwork for an IFQ program.

He reviewed specific questions raised by the work group in their report, which are detailed in Exhibit E.2.b. For example, different trip limit allowances for base permit versus stacked permits; basis for stacked permit trip limit allowance—based on length endorsement or catch history; and the use of species complexes rather than individual species.

In response to questions, he indicated that there appeared to be some congressional receptivity to a buyback program funded by a 100% loan, which would be repaid by the industry. Mr. Leipzig also indicated that the work group would not meet until Dr. Hastie has the opportunity to provide the needed analysis, which will not be until Fall 2002. Mr. Brown asked Mr. Leipzig if there had been discussion on which elements of a stacking program would better lend themselves to development of an IFQ program. Mr. Leipzig indicated that the scaling of cumulative trip limits for stacked permits based on catch history would facilitate the use of historic landings as the basis for initial allocation under an IFQ program.

### E.2.c. Report of the Ad Hoc Open Access Permitting Subcommittee

Mr. Seger reviewed Exhibit E.2.c, Open Access Permitting Committee Report. Attachment 1 to E.2.c provides the draft goals and objectives developed by the committee. These goals and objectives pertain to the directed fishery and are based on the Amendment 6 license limitation program, with some modifications. Mr. Seger emphasized that the purpose of the data request is not to develop qualifying criteria, but rather to gain a better understanding of the fishery (Attachment 2—Request for Data). Attachment 3 provides example results from the data request. He noted that this data request (especially descriptive information) should produce results that will be useful for several Council groundfish initiatives, such as the groundfish EIS, rebuilding plans, and annual specifications. Mr. Seger indicated that the committee's work plan included a review of the qualitative description of the open access fishery by the end of April, a request for GMT review in May, and the generation of a summary of the results of the quantitative analysis by a subgroup of the committee in June (provided the quantitative analysis is available).

He also reviewed committee discussion of how the open access fishery would fit with the limited entry fishery, and noted that permitting in the open access fishery should be coordinated with state nearshore FMP development. Consideration of the directed open access fishery versus the open access harvest that occurs incidental to other fisheries (e.g., pink shrimp) would be important.

The committee requested guidance from the Council on the draft goals and objectives, as well as the data request.

Mr. Brown noted that "fly" or "cable gear," one of the gears used in the live fish fishery, had been omitted from the data request.

#### E.2.d. Update on California Nearshore Fishery Management Plan (FMP)

Mr. Boydston spoke to Exhibit E.2.d, California's proposed FMP for nearshore groundfish management and delegation of management authority. He expects the public review draft of the FMP to be available in approximately one month. He noted, of the 19 species proposed for management, 16 species are managed under the Pacific Coast Groundfish FMP. California's management of these 16 nearshore species would require delegation from the Council to the California Fish and Game Commission. Issues to be addressed in California's FMP include:

- more restrictive control rules;
- subdivision of management areas to address local needs;
- restricted access for some of the 19 species, initially focused on live fish fishery;
- species allocations by fishery and/or area;
- time area closures; and
- use of marine protected areas as management tool.

Mechanisms proposed to accomplish state management of the 16 federally managed species include: removal from the federal groundfish FMP; delegation to the state of California the authority to manage beyond three miles; or deferral of regulatory authority. Delegation is the likely course of action and the 16 species would not be removed from the federal FMP. Regulatory responsibility would be delegated to the state of California. Periodic consistency reviews would be necessary to ensure state management was meeting federal management goals and objectives.

He acknowledged delegation would be a workload concern for the Council and indicated CDFG staff would be tasked with developing the necessary documents and analyses. He proposed scheduling a scoping session for the June 2002 Council meeting to provide information to the public and gather public input.

Mr. Brown noted that use of common names for the nearshore groundfish species could be confusing. It was suggested that scientific names be used to avoid confusion.

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

##### **GAP**

Exhibit E.2.e, Supplemental GAP Report provided by Mr. Rod Moore.

*The Groundfish Advisory Subpanel (GAP) reviewed a number of issues associated with implementation of the groundfish strategic plan and provides the following comments.*

*In regard to trawl permit stacking, a majority of the GAP believes the Council should move ahead with the effort and identify it as a priority above the Council's "workload line." Given the uncertainties associated with changes in the current Congressional moratorium on individual quotas and the bycatch reduction that can result from permit stacking, the GAP believes this suggestion is justified. However, none of the capacity reduction proposals being considered by the Council or the fishing industry will be truly effective until the Council fully resolves allocation issues among gear types and between commercial and recreational fishermen. A majority of the GAP, therefore, urges, as it has on numerous occasions previously, that the Council conclude the allocation process.*

*With regard to open access management procedures, the GAP has no recommendations at this time on particular approaches being considered. The GAP believes a better-fleshed out proposal is needed before comprehensive analysis can be provided. The GAP does note that the workload involved in dealing with this issue is substantial and advises that Council workload requirements and capabilities be analyzed before significant Council resources are devoted to this issue to the exclusion of other issues.*

*In regard to California near-shore management, the GAP appreciates the presentation given by Mr. Steve Wertz of the California Department of Fish and Game. A number of potentially contentious issues were discussed, including the impact of various options on establishing optimum yield levels, harvest allocation among gear types and between commercial and recreational fishermen, management of species which are found in the waters of more than one state and which may be caught in both federal and state waters, and the priority which would be accorded this issue in the context of Council workload. In general, the GAP believes California is moving too quickly on this issue, and several substantive questions need to be addressed. The GAP requests that a copy of the California management plan be forwarded to GAP members in sufficient time prior to the next Council meeting, where this issue will be addressed in order that the GAP can more clearly analyze options.*

#### E.2.f. Public Comment

Mr. Steve Bodnar, Coos Bay Trawlers Association; Coos Bay, Oregon  
Mr. Tom Ghio, Ghio Fish Company; Moss Landing, California  
Ms. Laura Deach, longliner, Lopez, Washington

#### E.2.g. Council Discussion and Guidance on Groundfish Strategic Plan Implementation

Mr. Alverson advocated for the continued work on trawl permit stacking, including an IFQ program, during the summer. This would facilitate obtaining an exemption to the Magnuson-Stevens Act moratorium on IFQ programs. Mr. Brown concurred with Mr. Alverson on the desirability of having a program developed to assist those who might solicit a moratorium exemption. He recommended that the Council go forward with development of a permit stacking program that could transition to an IFQ program. Mr. Brown suggested that consideration of catch history in determining the size of trip limits for stacked permits could address much of the very contentious initial allocation issues necessary for an IFQ program. The majority of an IFQ program, with the exception of the initial allocation, could probably be developed fairly quickly. He suggested allocation on the basis of species complexes, rather than individual species. Mr. Alverson commented on the need to address bycatch issues as well.

Dr. McIsaac commented that this issue may be germane for the Council's legislative committee. Mr. Alverson indicated that an appropriate matter for the committee might be to provide comment on the standards that IFQ programs may be required to meet once the moratorium is lifted.

Mr. Robinson expressed concern that work required for rebuilding plans, multi-year management, and the 2003 annual groundfish specifications would not leave much staff time to work on the trawl permit stacking issue. Mr. Brown thought that some policy questions might be addressed with minimal staff workload.

Mr. Boydston requested for the open access workgroup to meet in June to refine the criteria used to distinguish directed (targeted) versus incidental groundfish trips. He also asked that the option put forward by Ms. Laura Deach during public testimony be included. Ms. Deach suggested open access vessels be allowed to qualify for limited entry permits endorsed for exempted gears based on their exempted gear landings during the Amendment 6 qualifying window period (1984-1988).

In regard to California's nearshore FMP, Mr. Boydston stressed CDFG's commitment to provide the necessary documents for consideration at the June meeting. He suggested a scoping session occur at the June meeting and the Council could then determine if additional public scoping is necessary.

Mr. Brown noted important questions need to be answered. For example, for the nearshore species proposed for California state management, should we also consider transfer of authority of those species to Oregon and Washington as well? That is, do we need to hear from Oregon and Washington regarding their views about state management of nearshore groundfish.

Mr. Boydston suggested that California would endeavor to address the questions raised by the public and GAP. The answers would be provided in the June briefing book.

Mr. Brown, for the June meeting, Oregon and Washington should be prepared to discuss their intention to seek delegation of nearshore management of groundfish FMP species.

Mr. Anderson asked if the Council expected a response from each of the states? Is the Council expecting a report on a common suite of species delegated to each state? What other issues do you want addressed?

Mr. Brown noted his request was related to the FMP amendment for delegation of authority. If Oregon and Washington were also interested in seeking delegation, the amendment package would be different than if it is only California.

Mr. Anderson stressed there is variance relative to each state, especially the occurrence in each area by gear. He thinks the issues are quite different from state to state.

### E.3. Interpretation of Fixed Gear Sablefish Permit Stacking Provisions (Amendment 14) (04/10/02; 10:42 a.m.)

#### E.3.a. Agendum Overview

Mr. Seger reviewed the attachments in the briefing book and noted that the primary item for Council action under this item is to provide guidance to NMFS on interpretation of certain provisions related to Amendment 14 that have yet to be implemented. Ms. Yvonne de Reynier reviewed the areas where guidance was needed, as laid out in Exhibit B.3.a, Supplemental Attachment 7.

#### E.3.b. Reports and Comments of Advisory Bodies

### **GAP**

Exhibit E.3.b, Supplemental GAP Report provided by Mr. Rod Moore.

*The Groundfish Advisory Subpanel (GAP) met with NMFS and Council staff to discuss interpretation of the fixed gear permit stacking amendment. We offer the following comments, based on Exhibit 3.a, Supplemental Attachment 7.*

#### Issue 1, Duration of owner-on-board exemption

*The GAP supports Option C, with two changes: the break in ownership can be up to 1 year; and an additional provision should be added as follows: a person who qualified for the exemption as of the control date, but later divested, a permit can retain rights to an owner-on-board exemption as long as that person obtains another permit within 1 year of the date the owner-on-board regulations are implemented.*

*The GAP believes this additional language will solve problems for those who temporarily left the fishery without undermining the intent of this provision of Amendment 14.*

#### Issue 2, Affect on individuals who are corporate owners

*The majority of the GAP supports Option A with a minor change as follows: "A person who has a **30% or greater** ownership interest..."*

*The majority believed the original Option A was too broad and Option B was too restrictive. The additional language would constrain expansion of ownership exemptions while still recognizing the complexities of vessel and permit ownership in the fishery.*

*A minority of the GAP believes Option B more clearly reflected the intent of the Council in approving this provision of Amendment 14.*

### Issue 3, Deceased owners

The majority of the GAP supports Option B with a 3-year grace period. This option is preferred by NMFS and parallels similar regulations in the Alaskan fishery. A minority of the GAP believes a 1-year grace period is sufficient.

### Issue 4, Loss of exemption

The GAP supports Option A, continuing the provision regarding exemption loss. The GAP fully understands the implications for permit owners.

### Issues 5 and 6, Joint ownership of permits

The GAP discussed these issues, continues to support the provisions, and agrees that NMFS should be allowed to make corrections to the records as discussed in the Exhibit.

### Issue 7, Permit numbers on fishtickets

The GAP believes it is desirable to modify fishtickets to include space for recording permit numbers and urges the Council to request the states make those modifications. Until new fishtickets are available, states should require permit numbers be written on some appropriate place on the ticket. Over the long term, the GAP urges NMFS to develop a "card swipe" system to track landings which should be made available for all groundfish species and all gear types where cumulative limits (including sablefish tier limits) are used.

The GAP then discussed proposed regulatory changes which might be used to resolve problems faced by individuals who have been affected by the interaction of Amendment 14 regulations and general groundfish limited entry regulations. Mr. Mike Pettis of Oregon gave a presentation to the GAP on the problems that he, his wife, and his son have faced.

The GAP examined a regulatory option involving an increase in the number of permits that could be leased without violating the stacking limit (Option B on page 5 of the Exhibit). After a lengthy discussion involving the GAP, the NMFS representative, Council staff, Mr. Pettis, and members of the public the GAP voted on whether to maintain the status quo or recommend the proposed regulatory change. Of the members present and voting, 8 favored the status quo; 4 favored recommending the regulatory change; and 4 abstained.

## EC

Exhibit E.3.b, Supplemental EC Report was provided by LT Dave Cleary.

*Tracking of sablefish landings are dependent upon the state fishticket programs. Going into this 2002 fishing season, the state fishticket tracking systems are inadequate for tracking stacked permits either for purposes of enforcement monitoring and auditing, fisheries management, or recording individual permit histories. This situation will be further complicated through inseason permit transfers and next years proposed owner on board requirement.*

*At best, for this year, the state fishticket program can track individual and gross landings per **vessel**, poundage per individual **vessel** landing, and gross pounds per **vessel**. To accommodate stacked permits, state fishtickets programs will need to be modified to accommodate the tracking of up to three permits per vessel, and three permit owners per vessel, with the added provision of declaring what permit the landing is attributed to. In some landing situations, multiple permits will be required to accommodate the poundage of the landing. These are all significant changes to the current status quo and should not be assumed as just a matter of changing reporting requirements, but will require significant changes to the state fishticket infrastructure.*

*In the case of permit transfers during the primary season, the individual relinquishing the permit should be required to provide landing history to NMFS and the receiving party for the purposes of documenting the inseason landing history of that permit. Disclosure of all inseason landing documents is necessary to prevent fraudulent activity.*

*Applications for permits/permit transfers should include a statement advising applicants:*

*"It is a violation of federal criminal law to give false or incomplete information."*

*In addition, permits should contain the following information:*

1. *Owner(s) Name and Address*
2. *Vessel Name and Document Number*
3. *Effective Date of Transfer*
4. *Permit With Grandfathered Owners Identified (If Applicable)*
5. *Tier Assignment*
6. *In the Case of Transfer, The Identification of Previous Vessel Permit Assignment for that Fishing Year*

#### E.3.c. Public Comment

Mr. Jim Potts, fixed gear fisherman; Fort Bragg, California

Ms. Laura Deach, longliner; Lopez, Washington

Mr. Mike Pettis, F/V Challenger; Newport, Oregon

Mr. Tony Pettis, F/V Challenger; Newport, Oregon

#### E.3.d. **Council Action:** Provide Guidance to NMFS on Interpretation of Fixed Gear Sablefish Permit Stacking Provisions (Amendment 14)

Mr. Alverson moved and Mr. Jerry Mallet seconded a motion (Motion 10) to adopt as implementation guidance the recommendations of the GAP pertaining to the seven owner-on-board provisions, as shown in Exhibit B.3.b., Supplemental GAP Report and to incorporate the recommendations of the EC as shown in Exhibit B.3.b, Supplemental EC Report. One of the recommendations is to request the states modify their fish tickets to require the recording of the groundfish permit number under which a landing is made. Mr. Anderson and Mr. Bohn indicated that the states would look at this issue but that it had to be done carefully and they could not guarantee that the recommended action would be taken for 2003. Motion 10 passed.

Mr. Alverson moved and Mr. Bohn seconded the motion (Motion 11) to instruct the GAP to look at a cap on total permits a person could hold through leasing (as shown on page 5 of Exhibit E.3.a, Supplemental Attachment 7) to try to resolve the issue brought before the Council by Mr. Pettis. The committee would be asked to report back in June.

Ms. Cooney noted that before NMFS could move ahead with final implementation of the owner-on-board provisions additional analysis would be required to support the GAP recommendation that "a person who has an interest in a partnership or corporation that is a first generation owner be exempt from the owner-on-board provision, if that person's ownership is held under his/her name and is at least a 30% of the total ownership interest."

Mr. Alverson clarified that it was his hope that the GAP would return with multiple alternatives for Council consideration. Motion 11 passed.

E.4. Fourth Tier for the Limited Entry Sablefish Daily-Trip-Limit Fishery (04/10/02; 2:09 p.m.)

E.4.a. Agendum Overview

Mr. Seger reviewed the situation paper.

E.4.b. Groundfish Advisory Subpanel Report

Exhibit E.4.b, Supplemental GAP Report provided by Mr. Moore, GAP Chairman.

*The Groundfish Advisory Subpanel (GAP) held a lengthy discussion on a proposal to eliminate the limited entry sablefish daily-trip-limit (DTL) fishery and establish a fourth tier of endorsed sablefish permits.*

*While the GAP recognizes that elimination of the DTL fishery for limited entry permit holders would reduce discards and high-grading in this fishery, it would still allow fourth tier fishermen to participate in the open access DTL fishery once their regular season fishery was concluded. Since similar discard and high-grading problems presumably exist in the open access DTL fishery, the GAP does not believe that discards will actually be reduced.*

*In addition, it is unclear how many fishermen would be affected by this proposal, whether the economic effects would be positive or negative, or whether the proposal would have negative effects on other species or other fishermen. In short, too little data exists to properly examine the potential effects of this proposal.*

*Finally, the GAP notes that gathering the necessary data and examining biological and economic impacts would require an excessive amount of work for Council staff and committees at a time when higher priority issues need to be resolved.*

*Therefore, the GAP cannot recommend at this time the proposal be given consideration by the Council.*

E.4.c. Reports and Comments of Advisory Bodies

None.

E.4.d. Public Comment

Ms. Kathy Fosmark, Seeadler; Pebble Beach, California  
Mr. Craig Barbre, Morrow Bay Commercial Fishermen's Association; Los Osos, California  
Mr. Tom Ghio, Ghio Fish Company; Moss Landing, California  
Mr. Darby Dickerson, F/V Maverick; Port Angeles, Washington  
Ms. Laura Deach, longliner; Lopez, Washington

E.4.e. **Council Action:** Consider Initiating a FMP Amendment: Fourth Tier for the Limited Entry Sablefish Daily-Trip-Limit Fishery

Mr. Alverson noted Ms. Fosmark's comment that once the limited entry fishery was closed, the limited entry vessels would be able to use other gears to fish against the open access quota. Something would have to be done to plug that "loophole". Mr. Alverson further noted the broader implications of the Fishing Vessel Owners Association (FVOA) proposal and the relationship to general Council policy on capacity reduction. Council members declined to take action to move forward on this issue.

E.5. Status of Fisheries and Consideration of Inseason Adjustments (04/10/02; 2:29 pm)

E.5.a. Agendum Overview

Mr. DeVore provided the agendum overview.

E.5.b. Reports and Comments of Advisory Bodies

**GMT**

Dr. Hastie reviewed Exhibit E.5.b., Supplemental GMT Report, with the Council. He noted that there was another yelloweye issue in that the shrimp trawl fishery currently has no limitation on yelloweye retention other than the generic groundfish trip limit of up to 1,500 pounds per trip. In keeping consistent with other OA fisheries, the GMT recommends moving to no retention of yelloweye rockfish beginning May 1 in the shrimp trawl fishery.

**GAP**

Mr. Rod Moore provided Exhibit E.5.b., Supplemental GAP Report to the Council.

E.5.c. Public Comments

Mr. Doug Fricke, Washington Trollers Association; Hoquiam, Washington  
Mr. Kenyon Hensel, Crescent City Hook and Line Group; Crescent City, California  
Mr. Joe Easley, Oregon Trawl Commission; Astoria, Oregon

E.5.d. **Council Action:** Consider and Adopt Groundfish Inseason Adjustments if Necessary

Mr. Brown moved and Mr. Caito seconded a motion (Motion 12) to adopt the trip limit changes as outlined in Exhibit E.5.b, Supplemental GMT Report, April 2002 with the addition of the language of the GMT report clarifying yelloweye rockfish may not be retained in the pink shrimp trawl fishery, and, for slope rockfish fisheries north of Cape Mendocino, landings be prohibited with footropes larger than 8 inches in diameter and put fishermen on notice that small footropes may be required for DTS fisheries in the winter months.

Mr. Brown said that his experience has been that the adult darkblotched tend to be in deeper water with rougher bottom than juveniles and people generally try to avoid them due to market conditions. Having the small footrope restriction would help fishermen continue to avoid darkblotched rockfish.

Mr. Lincoln stated he understood that the specific estimate of the increased catch in the Monterey area is uncertain. To the extent there is an interest in taking a precautionary approach in the interim while the question about the landings in that area are clarified, he proposed considering changing the GMT proposed 14,000 pound trip limit for slope and splitnose rockfish to a level of 5,000 pounds. Mr. Brown would not accept that as a friendly amendment.

Mr. Boydston said he is comfortable with the 14,000 pound trip limit and suggested letting them look at the data until June, then revisiting it.

Mr. Caito asked Dr. Hastie about the darkblotched catches so far this year. Dr. Hastie answered, it is a ways below what we have seen the previous years.

In answer to questions, Dr. Hastie noted that the proposed restrictions are for both limited entry and fixed gear.

Mr. Brown, in clarifying his motion, said the current limits on slope rock in the north are not restricted to any footrope, but he said it would be restricted to the small footrope (just in the north), with no retention of yelloweye in the pink shrimp fishery.

Mr. Lincoln offered an amendment to motion 12: for the limited entry slope rockfish north of 36° and south of 40°10' (Monterey INPFC) and for the splitnose rockfish, north of 36° and south of 40°10', change the 14,000 pounds for two months to "5,000 pounds/2 months". The levels of effort represented by the current fishery are significantly higher than last year and he is concerned about the risk of losing September/October. Mr. Lone seconded the amendment.

Dr. McIsaac called the roll for the amendment to motion 12 (04/10/02; 3:55 pm) Amendment to motion 12 failed: 6 yes, 7 no. (Messrs. Caito, Hansen, Bohn, Boydston, Thomas, Mallet, and Dr. Radtke voted no).

Dr. Radtke called for a vote on main Motion 12. Motion 12 passed. Messrs. Lone and Lincoln voted no.

Mr. Brown moved and Mr. Alverson seconded a motion (Motion 26) to reconsider Motion 12, the inseason fisheries adjustments. Motion 26 passed.

Mr. Brown stated that in light of the recent information on higher than anticipated landings of darkblotched rockfish, he suggested a different set of trip limits. At his request, Dr. Hastie and Mr. Moore explained Exhibit E.5.b, Supplemental GMT/GAP Report 2 to the Council. The report provides proposed inseason changes to address darkblotched bycatch. Cutting the trip limits in half for July and August in the limited entry trawl north of Monterey results in a projected savings of about 6 mt of darkblotched. To complete the needed reduction, Report 2 recommends reducing the trip limits for all limited entry and open access fisheries north of 36° and south of 40°10' to 5,000 pounds for the period May through August. If these reductions prove unnecessary, they can be adjusted at the June Council meeting.

Mr. Anderson noted we want to avoid having the fishery closed for a substantial period in the fall and wintertime, and the proposed modifications in Report 2 do that. He had been concerned that the retention of the limited entry trawl for those vessels using the larger footrope for minor slope rockfish in the north would increase discard mortality. The proposed changes in Report 2 address those objectives.

Mr. Anderson moved and Mr. Brown seconded the motion (Motion 27) to substitute for Motion 12. (Motion 27) The motion would be the same as Motion 12, except the recommendations in Exhibit E.5.b, Supplemental GMT/GAP Report 2 would be substituted for the last two sections (i.e., for slope rockfish and splitnose rockfish) of the inseason recommendations on the final page of Exhibit E.5.b, Supplemental GMT Report. Motion 27 passed.

E.6. Groundfish FMP Environmental Impact Statements (EIS) (04/10/02; 3:58 p.m.)

E.6.a. Agendum Overview/Programmatic EIS

Mr. Jim Glock provided the agendum overview.

E.6.b. EFH EIS

Messrs. Jim Glock and Steve Copps briefed the Council on Exhibit E.6, Attachments 1 through 4a. Mr. Glock noted there would be an EIS meeting in May. Dr. McIsaac asked Mr. Glock about attachment 1, in 2004 it says the FMP amendment process will begin if deemed necessary by the record of decision. Mr. Glock replied he felt the Council should amend the FMP to reflect the strategic viewpoint (of the strategic plan). Mr. Copps said the Council could amend the plan through the EFH portion of the EIS. If we determine an FMP amendment is necessary, we would try to incorporate it into this EIS process to capitalize on the efficiency.

Mr. Glock said you could if you had a preferred alternative. Having this go through as a single package would speed up the process.

E.6.c. Reports and Comments of Advisory Bodies

**GAP**

Exhibit E.6.c, Supplemental GAP Report provided by Mr. Moore.

**SSC**

Exhibit E.6.c, Supplemental SSC Report provided by Dr. Tom Jagielo.

E.6.d. Public Comment

Mr. Joe Easley, Oregon Trawl Commission, Astoria, Oregon

E.6.e. Council Discussion and Guidance on Groundfish FMP Environmental Impact Statements (EIS)

Mr. Robinson said we need to start collecting the comments now and put together a good set of programmatic alternatives.

Mr. Lone, (as a member of the oversight committee) asked Mr. Glock, what the purpose is of the May meeting? Mr. Glock said the schedule we have put forward has the Council adopting the range of alternatives to go forward with the EIS at the June meeting. The goal of the oversight committee meeting is to develop those ranges of alternatives. As I see this being put together, a lot of this is falling on the committee, we will need a couple of days in May (May 8 and 9).

E.7. Rebuilding Plans (04/10/02; 4:33 p.m.)

E.7.a. Agendum Overview

Mr. DeVore noted this agenda item is informational only.

E.7.b. Reports and Comments of Advisory Bodies

**SSC**

Exhibit E.7.b, Supplemental SSC Report provided by Dr. Jagielo.

**GAP**

None.

**HC**

Exhibit E.7.b, Supplemental H C Report provided by John DeVore.

**NMFS**

Exhibit E.7.b, Supplemental NMFS Report summarized by Mr. Robinson.

E.7.c. Public Comment

None.

E.7.d. Council Guidance and Schedule for Completing Rebuilding Plan Amendments

Mr. DeVore asked whether the Council has any concerns of using the new numbers in the analysis as recommended by the SSC and rebuilding analysis authors.

Mr. Brown assumed we always use the best available numbers; he understood the number of iterations done in this simulation, by doing more we change the parameters that would most likely achieve rebuilding in the time frame. It did not significantly change the numbers. Hope to have continued exploration of the widow rockfish number, that it is defensible. Hopefully the other numbers are strengthened.

Mr. Boydston, on the paper by Dr. Punt, (Exhibit E.7, Supplemental Attachment 1), there are 2 strategies laid out in the first sentence. Another strategy we have used is the increasing mortality (changing the time as the stock rebuilds). He suggested that the author take that as another strategy. Council concurred.

E.8. Groundfish Stock Assessment Review (STAR) Process (04/11/02; 8:09 a.m.)

E.8.a. Agendum Overview

Mr. DeVore provided the agendum overview.

E.8.b. NMFS Report

Dr. Elizabeth Clarke provided the NMFS report.

E.8.c. SSC Terms of Reference for Stocks with Updated Assessments

Exhibit E.8.c, Supplemental SSC Report and Exhibit E.8.c, Supplemental Revised Terms of Reference for Updated Assessments provided by Dr. Jagielo.

E.8.d. Virgin Biomass ( $B_0$ ) and Maximum Sustainable Yield (MSY) Calculation Workshop

No report was given.

E.8.e. Reports and Comments of Advisory Bodies

**GAP**

Exhibit E.8., Supplemental GAP Report provided by Mr. Moore.

E.8.f. Public Comment

Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon

E.8.g. **Council Action:** Approve Process and SSC Terms of Reference for Stocks with Updated Assessments, Provide Guidance, and Consider Establishing a Workshop on Groundfish Technical Management Parameters

Mr. Brown, said that in general, the terms of reference that are here are good, except they need to figure ways the public can be involved. He would like to see planning for this conference not be delayed until November so it will not be stalled until another year.

Dr. McIsaac noted the Council staff would assist the SSC in improving the public participation process and notification. Council concurred.

Mr. Brown moved and Mr. Donald Hansen (Motion 13) seconded the motion to adopt the terms of reference as shown in Exhibit E.8.c, Supplemental Revised Terms of Reference for Updated Assessments with the addition that the SSC improve the public participation process and notification. Motion 13 passed.

#### E.9. Multi-Year Management Cycle (04/12/02; 8:33 a.m.)

##### E.9.a. Agendum Overview

Mr. Waldeck reviewed the agenda topic, items for Council consideration, reports expected from advisors, briefing book material, and Council action. He also highlighted for the Council the anticipated schedule for completion of the FMP amendment.

Ms. Cooney highlighted for the Council several considerations. She noted that, while a multi-year process could provide more time for Council decision-making, the recent court ruling compels a change to the annual management process. That is, time must be provided for the federal rulemaking process. Therefore, at the very least, Council adoption of final management measures in September with a fishery start date of January 1 should be modified, as this schedule does not provide the five months necessary for federal rulemaking.

Mr. Waldeck clarified that there are two initiatives being considered under the proposed FMP amendment: (1) a multi-year groundfish management schedule, with the aim of providing more time for Council processes; and (2) consideration of changing the fishing year start date, i.e., from January 1 to something else. Either of which could provide the time needed for the federal rulemaking process.

##### E.9.b. Reports and Comments of Advisory Bodies

### SSC

Exhibit B.9.b, Supplemental SSC Report provided by Mr. Jagielo.

*The Scientific and Statistical Committee (SSC) discussed the implications of multi-year management for the science that underlies the advice provided to the Council, if the assessment process involves "on" and "off" years. Under one scenario, assessments would be conducted during "on" years and more strategic issues, such as model development, would occur during "off" years. The SSC reiterates the importance of basing management advice on the most recent data, to the extent possible.*

*Changing to a multi-year management process may have unanticipated impacts. However, many of the identified disadvantages of multi-year management (e.g., the use in management of assessments not based on the most recent survey data) are common to the status-quo management process. The SSC recommends, however, that an analysis of the implications of setting acceptable biological catches (ABCs) for several years (3 to 4 years at present for some species) be conducted. The SSC also highlights the need to develop a process for selecting the assessments to be conducted during an "on" year and how each assessment is to be reviewed (through a full or expedited stock assessment review process).*

*The SSC identifies the following issues related to providing management advice for groundfish. It notes that these issues relate both to the status-quo and a multi-year management process.*

- There is currently a lack of sufficient agency staff to conduct assessments. The ability to conduct many assessments during an "on" year would be increased if the data used commonly for assessment purposes were stored in a standardized database. Extracting the basic data needed for assessments could be accomplished by support staff allowing analysts additional time to conduct assessments. There remains, however, a need for constant contact between analysts and data support staff to ensure that assessments consider the key uncertainties related to the data.*
- The use of standardized models would simplify the process of reviewing assessments.*

- *A two-year assessment process would be consistent with the schedule for updating rebuilding analyses.*
- *There will be a need for adequate resources (e.g., funds for travel and workshops) and coordination of activities, to maximize the benefits from research during the "off" year.*

*The recreational data used for assessment purposes are summarized in two waves while the commercial data are summarized by quarter. The SSC notes that changing the start of the fishing year to other than July 1 would, therefore, lead to a mismatch with the time strata for the commercial and recreational data.*

## **GAP**

Exhibit B.9.b, Supplemental GAP Report provided by Mr. Moore.

The Groundfish Advisory Subpanel (GAP) discussed the issue of multi-year management with Council staff and representatives of NMFS.

*The GAP recognizes the current one-year management process has led to an overwhelming workload for Council staff and advisors. This has been exacerbated by recent court decisions that add new steps to the management process. As a result, other issues which should be of high priority for the Council have been put aside. Further, potential advancements in scientific research have been foregone as scientists deal with the requirements of groundfish management.*

*A majority of the GAP, therefore, believes that movement to a multi-year management cycle is needed and the Council should take the necessary steps to prepare an amendment to the Pacific groundfish fishery management plan (FMP) to accomplish this goal. The amendment should include a range of options such as those described in Exhibit E.9, Attachment 1. The GAP recognizes there are positive and negative implications resulting from all of the options listed and chose not to thoroughly review them at this time until the Council decides whether to proceed with a FMP amendment.*

*The GAP also strongly supported maintaining the existing groundfish season start date of January 1st, regardless of whether the Council chooses to pursue multi-year management options. Fishery business decisions and fishing strategies have long been based on a January 1st start date and a change will cause unnecessary disruption without providing any savings in time or workload. Further, changing the season start date could cause problems for groundfish catch monitoring and tracking, as well as making decisions on inseason management. Since sound inseason changes will be crucial in implementing multi-year management, we should not be taking arbitrary steps to reduce the validity of inseason analysis.*

### **E.9.c. Public Comment**

None.

### **E.9.d. Council Action: Consider Initiating a FMP Amendment for a Groundfish Multi-Year Management Cycle**

Mr. Waldeck reviewed Council action. He highlighted three items for consideration: schedule for development of an FMP amendment, objectives of the amendment (e.g., multi-year management, fishery start date, or both), and review of current alternatives.

Mr. Robinson moved and Mr. Alverson seconded the motion (Motion 14) to instruct the Council to proceed with an amendment to the groundfish FMP. The need for the amendment is based on the recent court ruling, work of the Groundfish Multi-Year Management Committee (GMMC), and Council advisory body input. Both the multi-year management issue and changing the fishery start date should be considered and analyzed. He noted it would be productive to refine the number of alternatives, if possible.

Thus, working from Exhibit E.9, Attachment 1, the Ad Hoc Groundfish Multi-Year Management Committee Report, he asked the analysis include Option A - status quo; Option B (which is similar to Option F, but for the January 1 start date) be included as a suboption under F; not include Option C (as it adds an extra year of delay in the science); include Option D (which included the GAP recommended January 1 fishery start date); include Option E; and include Option F (with two sub-options for fishery start date).

Mr. Robinson addressed the schedule for developing the amendment. A public review draft FMP amendment and supporting documentation would be developed in time for Council action at the June council meeting, final Council adoption would occur at the September 2002 Council meeting. The seconder concurred to add the schedule to the motion.

Mr. Boydston supported the schedule and the remainder of the motion.

Mr. Bohn asked if the development schedule was realistic given other workload, notably development of 2003 management specifications.

Mr. Robinson stressed that, while we cannot predict how development will go, an ambitious schedule should be the Council's goal. NMFS-NWR staff will do a significant part of the drafting and analyses.

Dr. McIsaac asked Mr. Robinson about the Council operating procedure whereby FMP amendments are developed over three Council meetings and the requirements for public scoping. Mr. Robinson considered the March and April meetings, where multi-year management was discussed, would satisfy the scoping requirements.

Mr. Brown also noted that multi-year management has been discussed at several meetings, and opined that adequate scoping had occurred.

Motion 14 passed – voice vote.

#### E.10. Transitional Management Cycle in 2002 through 2003 (04/11/02; 9:03 a.m.)

##### E.10.a. Agendum Overview

Mr. Waldeck provided an overview for the Council.

##### E.10.b. Reports and Comments of Advisory Bodies

None.

##### E.10.c. Public Comment

None.

##### E.10.d. **Council Action:** Establish an Interim Management Process for Transitional Groundfish Management Cycle in 2002 through 2003

Mr. Anderson asked Mr. Robinson to speak to how interim regulations for January and February of 2003 would be set, is an emergency rule an option? Mr. Robinson did not see use of an emergency rule as an option. Regulations for the January-February period might be based on either roll over of 2002 specifications from that period or interim regulations developed during the June-September specifications setting process. Use of an interim final rule would require agreement from the plaintiffs. The problem with an emergency rule is there is sufficient time for us to plan for the fishery, hence, it is hard to demonstrate that there is an actual emergency.

Mr. Anderson noted that, given it takes five months for federal rulemaking, a specification setting process that ends with final Council action in September combined with a fishery start date of January 1 is impractical both now and in the future. Mr. Robinson responded yes, which is why consideration of changing the fishery start date is an important part of the FMP amendment discussed under Agendum E.9.

Ms. Cooney clarified that the 2002 groundfish regulations are designed to be valid until they are replaced by new management regulations, i.e., January-February 2002 regulations would apply during January-February 2003 unless they are replaced by interim regulations. Interim regulations might be possible, but their use could be contingent upon strong progress in development of the FMP amendment for multi-year management and fishery start date (Agendum E.9). Use of an interim rule might be difficult without agreement from the plaintiffs.

Mr. Anderson enquired if there would be information by the June meeting to indicate whether an interim rule would be a valid option for January-February 2003. Ms. Cooney replied every effort would be made to have that information as soon as possible.

The Council had a brief discussion of how the transition from the current to the revised management process and/or changed fishery start date could occur. Generally, the transition process hinges on the preferred option selected for the revised management process.

Mr. Brown noted it might be necessary for the GMMC to meet after the June Council meeting to work on transition scenarios for the different alternatives for revising the management process. As each alternative could require different types of transition.

Dr. McIsaac agreed it might be appropriate for the GMMC to meet between June and September to work on transition issues. He also enquired about the need for the Ad Hoc Allocation Committee to meet prior to the June Council meeting to lay the groundwork for development of management measures at the June Council meeting, and urged the Council to consider scheduling a meeting of the Ad Hoc Allocation Committee.

Mr. Boydston noted the need for the allocation committee depends on the results of the stock assessments and Stock Assessment Review process. He suggested that an allocation meeting be scheduled, but it might not be needed depending on the results of the new assessments and updated sablefish assessment.

Mr. Waldeck reviewed the schedule of assessments and assessment updates, and noted information for the Ad Hoc Allocation meeting should be available following the May 13-17 GMT meeting.

Mr. Anderson suggested a conference call of the Ad Hoc Allocation Committee be scheduled and noticed for the week after the GMT meeting, i.e., the week of May 20, 2002. The Council concurred. A second allocation committee will also be scheduled for just prior to the June Council meeting.

Mr. Boydston moved (Motion 15 – second by Mr. Brown) to adopt (for 2002) a two-meeting schedule for developing and adopting groundfish management specifications and measures for 2003 fisheries (i.e., a June-September schedule). His motion included scheduling a teleconference and a meeting date for the Ad Hoc Allocation Committee to consider the stock assessment information prior to the June Council meeting.

Motion 15 passed.

E.11. Exempted Fishing Permits (EFP) (04/11/02; 9:45 a.m.)

E.11.a. Agendum Overview

Mr. DeVore provided the agendum overview.

#### E.11.b. Status of Ongoing EFPs

##### E.11.b.i. Arrowtooth Flounder and Rockfish EFP

E.11.b.i, Supplemental WDFW Report was provided by Ms. Michele Robinson.

##### E.11.b.ii. Chilipepper Rockfish and Bocaccio EFP

Mr. Boydston stated that since March they have solicited vessels for participation in the two studies. They received letters of interest from several ports (excess requests). They have submitted a funding request to the PSMFC. He also talked about the one-time appropriation of disaster relief funds available for West Coast fisheries. The proposals are to hire NMFS approved fishery observers. CDFG and the Pacific Marine Conservation Council (PMCC) will be supervising the respective projects. Working through PSMFC, the plan is to amend the contracts to provide an additional 6 to 8 observers depending on how we actually end up deploying them. An objective in addition to the EFP is to work closely to coordinate all of this with the existing NMFS observer program. They will be working with NMFS staff to develop the details of the individual permits and select the vessels to be involved. The bottom line is they are making progress, but don't have a specific date.

##### E.11.b.iii. Vertical Line Gear Selectivity EFP

See E.11.b.ii.

#### E.11.c. New EFP Applications

No new applications were received. Mr. Robinson did briefly refer to Exhibit E.11.c, Supplemental NMFS Report (compensation fish for Northwest Fisheries Science Center Slope Survey) and to Exhibit E.11.d. (informational item noting EFP application requirements).

#### E.11.d. Reports and Comments of Advisory Bodies

None.

#### E.11.e. Public Comment

Mr. Craig Barbre, Pacific Coast Federation of Fishermen's Association; Los Osos, California

#### E.11.f. **Council Action:** Recommendations to NMFS on EFPs

Mr. Robinson moved and Mr. Brown seconded the motion (Motion 16) to approve the Northwest Fisheries Science Center's proposal for compensation for fish as shown in Exhibit E.11.c, Supplemental NMFS Report. Motion 16 passed.

Mr. Brown recommended approval of the other EFPs. Mr. DeVore said those other EFPs were approved last year. He then brought up the issue that more and more people are interested in this kind of process of trying to figure out ways they can fish; at this point, he suggested after we get our plan amendment in place for multi-year management that we have a session to decide formally EFP processes, how we are going to determine success. Thinking back to the last time we used this for a fishery that wasn't standard (the sablefish setnet fishery). We need to have a little more process so people know what they are dealing with; to some degree you may not be able to determine success - determine what our end-game is.

Mr. Donald Hansen noted he knows Mr. Barbre brought this EFP before the Council a few years ago and we are still looking at it.

E.12. Yelloweye Rockfish Protection Near Halibut Hotspot Area (04/11/02; 10:11 a.m.)

E.12.a. Agendum Overview

Mr. DeVore provided the agendum overview.

E.12.b. Washington Department of Fish and Wildlife Report

Exhibit E.12.b, Supplemental WDFW Report provided by Mr. Brian Culver.

E.12.c. Reports and Comments of Advisory Bodies

### **GAP**

Exhibit E.12.c, Supplemental GAP Report provided by Mr. Moore.

E.12.d. Public Comment

Mr. Dan Leinen, Clerk-Treasurer; Forks, Washington

Mr. Chris Northcut, Quileute Tribe (Quileute Natural Resources); LaPush, Washington

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

E.12.e. **Council Action:** Consider Available Information and Potential Benefits from Closure (Yelloweye Rockfish Protection Near Halibut Hotspot Area)

Mr. Anderson said they have about 800 yelloweye to work with here. When we went back home from the November meeting and started a more intensive look at the data we were forced to close our fishery outside 25 fathoms for halibut. We wanted to put a damper on the incidental yelloweye catch in Washington recreational fisheries.

Mr. Brown said we have not set aside any surveys or have surveys to assess yelloweye rockfish; if we were to get better information we would have to shut fisheries down along the coast.

Mr. Anderson said they do have a partnership with NMFS in terms of funding to assess yelloweye populations along the coast of Washington this summer. They are trying to augment the information they have to make better management decisions from.

Mr. Anderson, in answering public comment questions, the first response that we received following the November council meeting came from a group of private boat anglers - the Recreational Fishing Alliance. They made their concerns known to the legislature and WDFW about this closure. In response to those concerns, WDFW pulled together a meeting of the individuals (stakeholders) for further discussions. The additional analysis of what might occur by having a one fish bag limit in terms of a targeted catch on yelloweye would put the halibut fishery in jeopardy which is a big economic component to Neah Bay, La Push, and Ilwaco. They struggled hard about what additional measures to take, including going to a zero yelloweye bag limit; they had concerns that the area fished by the majority of halibut fishers has shifted south of the closure of the "hotspot" area. That area is chosen from the experiences of fisherman reporting yelloweye. They discussed at length the potential effect. They believe there are halibut grounds available south of this area; recognize the fleet out of Neah Bay will change the area they fish dramatically as a result of this action. In terms of the process outside WDFW, there is a provision in the halibut catch sharing plan that allows inseason adjustments to meet fishery management objectives. He understands the concerns raised by public comment, WDFW will be reviewing prior to the 2003 management measures how this worked, the effect of fishermen of Neah Bay (all sectors).

Mr. Anderson also noted on the commercial side of this, they talked to the Washington Trollers Association (WTA) and others. The northwestern part of this area is good salmon fishing. Salmon fishermen are willing

to take measures to avoid yelloweye and felt a voluntary approach was superior to a regulatory approach. Similarly in longline sablefish fisheries - they are asking them to voluntarily avoid yelloweye.

Mr. Brown asked Council staff to stress in the Council Newsletter any information about the importance of avoiding yelloweye.

Mr. Anderson requested that the Council put in the Newsletter the request for commercial fishers to avoid this particular area and take other measures to avoid the incidental catch of yelloweye and to the extent possible incorporate this on their website. WDFW has put together brochures and other means of communication.

## **F. Pacific Halibut Management**

F.1. Proposed 2002 Incidental Catch Regulations for the Salmon Troll and Fixed Gear Sablefish Fishery (04/12/02; 10:51 a.m.)

F.1.a. Agendum Overview

Mr. Chuck Tracy provided the agendum overview.

Mr. Brown inquired if the action on agendum E.12 addressed the concerns regarding the options dealing with the "halibut hotspot" and yelloweye rockfish concerns. Mr. Anderson responded yes.

F.1.b. Reports and Comments of Advisory Bodies

### **SAS**

Mr. Mark Cedergreen provided the following statement: The SAS supports Option I.

F.1.c. Public Comment

None.

F.1.d. **Council Action:** Adopt Final Annual Incidental Halibut Harvest Restrictions

Mr. Anderson moved and Mr. Lone seconded the motion (Motion 17) using Exhibit F.1, Situation Summary, April 2002, to adopt Option 1 for the salmon troll fishery. Motion 17 passed.

Mr. Alverson moved and Mr. Lone seconded the motion (Motion 18) using Exhibit F.1, Situation Summary, April 2002, to adopt Option 1a for the commercial sablefish fishery north of Point Chehalis, with the following modification: change the restriction from 200 pounds of halibut per 1,000 pounds of sablefish to 150 pounds of halibut per 1,000 pounds of sablefish.

Mr. Alverson indicated he recommended a reduction from 200 to 150 pounds because of concern that more than the 42 permits used in 2001 would fish in the northern area in 2002. He felt the 150 pounds limit would generate 55,000 pounds of halibut harvest which would provide for some buffer, minimize the targeting of halibut, and reduce impacts on yelloweye rockfish.

Mr. Bohn requested clarification on the inclusion of Option 2 in the motion (the trip limit). Mr. Alverson responded that the motion did not include a trip limit restriction because some vessels attempt to take their entire sablefish allocation in one trip, and a halibut trip limit would restrict their access to their full share of halibut and increase halibut bycatch.

Motion 18 passed.

## G. Administrative Matters

### G.1. Status of Legislation

#### G.1.a. Current Legislation (04/11/02; 1:25 p.m.)

Mr. Bob Alverson provided the Council with a brief oral summary of recent legislative activities, including the Marine Mammal Protection Act and the moratorium on individual fishery quotas.

#### G.1.b. Council Discussion on Status of Legislation

Dr. McIsaac noted that the matter of cooperative research is a big deal in several legislative arenas and there is a workshop on Wednesday evening with the Northwest Fisheries Science Center (NWFSC) on previous monies allocated to the cooperative research effort.

### G.2. Appointments to Advisory Bodies, Standing Committees, and Other Forums (04/11/02; 1:31 pm)

#### G.2.a. Appointments to Advisory Bodies

Dr. John Coon outlined four appointment issues for the Council: appointment to the vacant Alaska Fishery Science Center (AFSC) position on the SSC; discussion of issues concerning tribal representatives on the advisory bodies; creation of a new NWFSC position on the SSC to be filled by an expert on groundfish management; and a new tribal position on the GMT to be filled by a groundfish scientist.

#### G.2.b. Reports and Comments of Advisory Bodies

None.

#### G.2.c. **Council Action:** Appoint New Members to Advisory Bodies

The Council appointed Dr. Martin Dorn to the AFSC position on the SSC. (Motion 19)

In response to increasing management needs for groundfish, the Council stated its intent to create and fill two new advisory body positions at its June 2002 meeting. The first position is a new Northwest Fishery Science Center (NWFSC) position on the SSC (Motion 19), which is dedicated to a NWFSC scientist with expertise in groundfish stock assessment. In addition, based on a recommendation from Mr. Harp, the Council agreed to create a new position on the Groundfish Management Team for a tribal scientist with groundfish expertise (Motion 21).

The Council discussed the status of the California tribal seats on the Salmon Advisory Subpanel (SAS) and Habitat Committee (HC) which have been held by the Yurok and Hoopa Valley Indian tribes, and the overall basis of tribal representation on advisory subpanels in general. Mr. Harp noted the co-manager status of the tribes and the manner of their representation before the full Council and in other forums (e.g., Klamath Fishery Management Council and North of Cape Falcon Forum) in which tribal representatives are directly recognized along with the other management entities. In contrast, the advisory subpanels generally consist of non-management representatives of the fishing industry, public, and conservation entities. In light of these facts, the open nature of subpanel deliberations, and the need for efficiency and effectiveness of the Council advisory process, the Council agreed to communicate its intent to consider eliminating all tribal positions on the SAS at its June 2002 meeting (Motion 20). The Council clarified that this action does not affect the tribal fisherman position on the Groundfish Advisory Subpanel or tribal representation on the HC or any other advisory bodies.

### G.3. Council Staff Work Load Priorities (04/12/02; 10:45 a.m.)

#### G.3.a. Agendum Overview

Dr. McIsaac provided a PowerPoint presentation to the Council on workload priorities and reviewed Exhibit G.3., Supplemental Staff Workload Report.

#### G.3.b. Council Discussion and Guidance on Council Staff Work Load Priorities

Mr. Robinson stated that the highest work priority is to complete the draft rebuilding plan framework, five rebuilding plans, and the draft EIS for those plans by the June meeting. In addition, the 2001-2002 groundfish stock assessment and fishery evaluation document should be completed before we start the 2002-2003 process.

Mr. Anderson recommended that the rebuilding plan for darkblotched be given priority.

Dr. McIsaac noted the priority to finish the rebuilding drafts, but stated that some species may fall below the line due to maximum staff workload. Tasks such as preparation for the annual specifications and the GMT meeting must also be accomplished.

Mr. Boydston expressed his priority for scoping of nearshore management at the June meeting and offered assistance to assure that would happen.

### G.4. June 2002 Council Meeting Draft Agenda (04/12/02; 10:50 a.m.)

#### G.4.a. Consider Agenda Options

Dr. McIsaac reviewed Exhibit G.4., Supplemental Draft June Agenda with the Council. He noted the draft included every possible item that staff was aware of that the Council might like to cover. It is clear that the agenda needs to be reduced and we need Council direction on what to delay to future meetings.

#### G.4.b. **Council Action:** Adopt Draft Agenda for the June 2002 Meeting

Mr. Brown questioned the need for the draft Highly Migratory Species FMP and suggest it be delayed to September along with the scoping for delegation for nearshore management authority.

Mr. Alverson suggested the sablefish item could wait until the November meeting to get a better analysis of what is going in.

Mr. Boydston stated that the transfer of nearshore management authority issue needs to be moved forward as it is a high priority for California. He wondered if there was some way we could shorten the time spent on agenda items by limiting the amount of time allowed for each.

Mr. Anderson suggested adding yelloweye to the rebuilding analysis for bocaccio and canary. He also asked to add an item on the appointment of SSC and GMT positions relative to the new state individuals participating on the GMT (receiving their resumes in June rather than September). He offered Mr. Jagielo's time to help with the lingcod rebuilding plan, hoping that would help move the darkblotched rebuilding plan above the line. He did not see the necessity of having the conservation goals for Puget Sound Chinook addressed at the June meeting as opposed to September.

Mr. Bohn recommended we defer the entire proposed salmon agenda scheduled for June until September. A Mitchell Act update could be put under administrative matters.

Dr. Coon suggested delaying the salmon issues until November as the September agenda will be very crowded with groundfish issues.

Mr. Mallet suggested that we just get a written report and just reference it for informational items that may not need discussion.

Based on the comments so far, Mr. Lone suggested cutting Habitat Committee items, salmon FMP amendment scoping, whiting rebuilding, coastal pelagic species, and the strategic plan issues.

Dr. McIsaac summarized the Council recommendations for the draft June agenda. Tentatively, the Council will postpone the following: the salmon agenda (provide the Mitchell Act update in writing only - no oral reports), the ownership cap clarification; whiting rebuilding analysis; and trawl permit stacking. The open access issue and Marine Recreational Fishery Survey will be written reports only. When possible, administrative items will be provided in writing, but will not be allowed time on the agenda.

Dr. McIsaac asked about the EFH EIS? Mr. Robinson said it does not have to be on the June agenda, but the FMP EIS does. On the whiting rebuilding analysis, if there is one done, then you would want the SSC to review it.

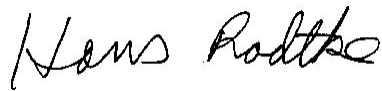
Mr. Bohn requested that the Council get a copy of the modified proposed agenda (with the hours included) in the same format as provided at the meeting rather than in the complete agenda format.

G.4.c. Identify Priorities for Advisory Body Consideration

Mr. Brown stated he believes the SSC will need to comment on nearly all of the agenda items.

ADJOURN

The Council adjourned at 12 p.m. on Friday, April 12, 2002.



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**Hans Radtke, Council Chairman**

October 29, 2002

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**Date**