

MINUTES
Pacific Fishery Management Council
June 12-17, 2005
Crowne Plaza Hotel
1221 Chess Drive
Foster City, CA 94404
650-570-5700

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A. Call to Order

A.1 Opening Remarks, Introductions (06/13/05; 2:01 pm)

Chairman Donald K. Hansen opened the 179th meeting of the Pacific Fishery Management Council.

A.2 Roll Call

Mr. Bob Alverson
Mr. Phil Anderson
Mr. Ralph Brown
Dr. Patty Burke
Mr. Mark Cedergreen
Dr. Steve Freese
Mr. Donald K. Hansen (Chairman)
Dr. David Hanson (Parliamentarian)
Mr. Jim Harp
Mr. Jerry Mallet
CDR. Fred Myer
Mr. Dave Ortmann (Vice-Chairman)
Mr. Tim Roth
Mr. Roger Thomas
Mr. Darrell Ticehurst
Ms. Marija Vojkovich
Mr. Frank Warrens
Mr. Gordy Williams

Mr. Stetson Tinkham was absent.

A.3 Executive Director's Report

Dr. McIsaac briefly reviewed the Informational Reports provided in the Briefing Book. He referred the Council to Informational Report #5 in which Channel Island National Marine Sanctuary (CINMS) was asking for a response from the Council. Chairman Hansen said the Council would respond to the CINMS statements.

Ms. Marija Vojkovich moved and Mr. Roger Thomas seconded a motion (Motion 1), to have the Council draft a response to the letter from the National Marine Sanctuary Program (Informational Report 5, NMFS Report on CINMS) responding to the items identified by Dr. McIsaac, including the comment extension time after the November meeting, and any comments or information that the Council would like to give following any action taken on Wednesday at this meeting. Motion 1 passed.

A.4 Council Action: Approve Agenda (Motion 2)

The Council approved the agenda as shown in Agenda Item A.4, June Council Meeting Agenda, with the addition of adding a report from the Coast Guard on Tuesday morning prior to agenda item D.1.

B. Administrative Matters

B.1 Approval of Council Meeting Minutes (06/17/05; 10:13 am)

B.1.a Council Member Review and Comments

None.

B.1.b Council Action: Approve March Minutes

Mr. Brown moved and Mr. Warrens seconded a motion (Motion 23) to approve the March minutes as shown in Agenda Item B.1.a, Draft March 2005 Council Minutes. Motion 23 passed.

B.2 Legislative Matters (06/17/05; 10:14 am)

B.2.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

B.2.b Legislative Committee Report

Mr. Tracy presented Agenda Item B.2.b, Supplemental Legislative Committee Report.

Mr. Anderson noted at least one of the positions, specifically Issue 7 - meetings of the Council Chairs, supported by the Council Chairs in Agenda Item B.2.a, Attachment 2, was not discussed by the Pacific Council, and he was concerned that positions were being forwarded without discussion or approval of the full Council. He asked if there was a recommendation from the Legislative Committee (LC) to adopt the recommendations of the Council Chairs on reauthorization of the Magnuson Act. Dr. Hanson noted there was inadequate time in the LC meeting to thoroughly discuss the issues, and the LC did not have such a recommendation. Dr. McIsaac clarified the issue was related to the Federal Advisory Committee Act (FACA) and the desire to have the eight regional Council Chairs and Executive Directors meet in open public meetings to develop recommendations while being in compliance with the FACA. The recommendation was not related to increasing the scope or authority of those meetings, but to legal advice relative to vulnerability to potential FACA violations.

Dr. McIsaac noted the title on Agenda Item B.2.a, Attachment 3, referring to positions of the Council Chairs and Executive Directors, inadvertently included the Executive Directors, and that the positions referred to were only of the Council Chairs.

B.2.c Reports and Comments of Advisory Bodies

None.

B.2.d Public Comment

None.

B.2.e Council Action: Consider Recommendations of the Legislative Committee

Mr. Brown moved (Motion 24) to accept the report of the Legislative Committee. Mr. Warrens seconded the motion.

Motion 24 passed.

B.3. Appointments to Advisory Bodies, Standing Committees, and Other Forums (06/17/05;10:35 am)

B.3.a Agenda Item Overview

Mr. Tracy presented the agenda item overview.

B.3.b Council Action: Appoint New Members as Necessary

Dr. Freese moved (Motion 26) that the Council appoint Dr. Owen Hamel to replace Dr. Han-Lin Lai on the Scientific and Statistical Committee as a representative of NMFS Northwest Fisheries Science Center. Mr. Harp seconded the motion.

Motion 26 passed.

Dr. Burke moved (Motion 27) to readvertise for the conservation representative on the Coastal Pelagic Species Advisory Subpanel vacancy. Mr. Brown seconded the motion.

Motion 27 passed.

The Council directed Council staff to continue recruitment for the vacant Washington Coastal Tribal representative on the Salmon Advisory Subpanel and begin recruitment for the processor representative on the Groundfish Advisory Subpanel, as Mr. Rod Moore was appointed to an at-large seat on the Council.

Mr. Hansen recommended delaying consideration of changing the composition of the HMSMT to include a representative of the Inter-American Tropical Tuna Commission (IATTC) until the September Council meeting.

Mr. Anderson asked if his recommendation was then to follow the Council Operating Procedures (COPs) and provide notice of a potential change in the COPs to redesignate one of the Highly Migratory Species Management Team Southwest Science Center seats for the IATTC. Mr. Hansen replied yes.

Mr. Hansen established a new ad hoc coastal pelagic species tribal allocation committee consisting of Mr. Jim Harp, Mr. Phil Anderson, Dr. Patty Burke, Ms. Marija Vojkovich, and Mr. Mark Helvey/Dr. Steve Freese. Ms Cooney clarified the role of the committee was to have State representatives consult with NMFS and the Tribal representative on allocation issues.

B.4 Work Load Priorities and Draft September 2005 Council Meeting Agenda (06/17/05; 10:41 am)

B.4.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

B.4.b Reports and Comments of Advisory Bodies

Mr. Burner read Agenda Item B.4.b, Supplemental SSC Report.

Ms. Ashcraft read Agenda Item B.4.b, Supplemental GMT Report

Lt. Dave Cleary, speaking for the Enforcement Consultants, reported that some of the regular EC members would not be at the September meeting due to a conflicting national meeting with NMFS Enforcement concerning joint enforcement agreements. Therefore, there would not be an enforcement report on the September agenda.

B.4.c Public Comment

Ms. Kathy Fosmark, Alliance of Communities for Sustainable Fisheries, Pebble Beach, California
Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California

B.4.d Council Guidance on Work Load, September Council Agenda, and Priorities for Advisory Body Consideration

Ms. Vojkovich asked about who would fund the symposium the SSC is proposing regarding the status of the California current. Dr. McIsaac indicated that this would be an off-year science activity and that the Council could consider it in November when planning for off-year science activities is on the Council agenda.

Dr. McIsaac indicated that the September agenda is extremely loaded and several items are shaded to indicate they may be deleted, including the stock assessment briefing on Monday. The SSC will be working an extra day to cover the stock assessments and will not have time to provide a briefing. To the degree possible, we will schedule agenda items on Monday, but there are still several shaded issues that need to be deleted to make the agenda workable.

Dr. Burke stated that while the September agenda is very full and the SSC is tied up with the stock assessment reviews, she believes it is a unique situation this year and would like to have a briefing on Monday that at least covers the controversial assessments. Ms. Vojkovich suggested that the NWFSC provide a briefing. Dr. Hastie agreed to consider this request.

After further agenda discussion, Dr. Freese, with reservations, agreed to delay Groundfish Amendment 10 to November if a session could be held one evening during the September meeting with the states and industry to work on any outstanding issues on the whiting monitoring. Dr. Burke expressed her concurrence. Dr. Freese also agreed to move expansion of the vessel monitoring system (VMS) to November. However, the briefing materials and EA would be provided to the advisors for review at the September meeting. Mr. Helvey suggested delaying the Krill amendment issue. Mr. Anderson stated that the spiny dogfish and Pacific cod management issues must be on the September agenda. Council members agreed to delay consideration of the high seas longline fishery, postpone the salmon EFH review and enforcement report, postpone the Olympic NMS report, and put groundfish experimental fishing permit applications in the Informational Report section (advisors could review the reports at the September meeting and provide statements in November).

Dr. Freese indicated that he would find some money to fund VMS meetings prior to the November Council meeting.

Ms. Vojkovich expressed her frustration with the GMT workload created by all of the groundfish agenda items. Dr. McIsaac acknowledge the frustration with so many issues and suggested setting priorities for which items the GMT should make statements on and those which they need not. Mr. Anderson recommended the GMT make no statement on the stock assessments. Ms. Ashcraft, speaking for the GMT, identified the following issues the GMT would not develop statements for: the CINMS, Amendment 14b, and the TIQ EIS. The GMT would plan to start meeting at 1 P.M. on Sunday. The Council expressed an expectation that the GMT would not work consistently beyond eight hours a day during the Council meeting.

To more efficiently handle HMS issues, the Council directed the chairman to appoint an Ad Hoc HMS Management Committee of Council members to work with the HMST, particularly concerning the high seas longline fishery. The Chairman appointed himself, Ms. Vojkovich, Mr. Anderson, and Mr. Helvey to the subcommittee.

C. Groundfish Management

C.1 Preparatory Informational Briefing on Trawl Individual Quota (TIQ) Program Development (06/13/05; 2:31 pm)

C.1.a Agenda Item Overview and Informational Briefing

Mr. Jim Seger provided the agenda item overview.

C.1.b Questions of Clarification from Council Members

Mr. Seger held a question and answer period with Council members. Discussion was kept to the orientation briefing (powerpoint presentation and preliminary TIQC report) given by Mr. Seger.

C.1.c Public Comment

None.

C.1.d Council Discussion

None.

Also at this time Cdr. Fred Myer introduced Admiral Eldridge, 11th Coast Guard District, who gave a brief report on the district's activities. Cdr. Myer presented information on proposed vessel safety initiatives.

C.2 Initial Consideration of Opening Date of California Shore-based Whiting Fishery (06/15/05; 8:16 am)

C.2.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

C.2.b Reports and Comments of Advisory Bodies

Mr. DeVore read Agenda Item C.2b, Supplemental GAP Report.

Ms. Michele Culver provided Agenda Item C.2.b, Supplemental GMT Report.

Ms Ashcraft, the GMT chair, arrived while the statement was being read into the record. She fielded questions on behalf of the GMT.

Mr. Thomas asked if there was a greater abundance of Sacramento winter run chinook south of Pt. Arena than north. He stated a test fishery indicated this was so. Ms. Ashcraft responded the GMT only analyzed salmon bycatch in the whiting fishery, not bycatch in other fisheries.

Dr. Freese remarked the GMT recommended an analysis of 2006 EFP results before making a permanent whiting season change south of 40°30' N latitude. Aren't whiting more variable in their abundance and distribution, thus necessitating more than one year of observations? Ms. Ashcraft said the GMT was recommending a 2006 EFP as a starting point for analysis. Dr. Freese asked if the GMT discussed whether to use state or federal observers in the EFP. Ms. Ashcraft said yes, but the availability of federal observers was limited. She noted that Mr. Cohen, the proponent of a season change, offered to pay for observers. The GMT could not comment on the effectiveness of camera monitoring without an available analysis.

Ms. Vojkovich asked about the GMT workload associated with this request. Is this workload analysis of a 2006 EFP, tracking the fishery, or what? Ms. Ashcraft said the GMT would work to set up the EFP, set up observers, and analysis of EFP results. She added the NMFS workload could be considerable. Ms. Vojkovich stated the additional workload comes if this is a separate EFP with enhanced observer coverage. Ms. Culver clarified that the GMT currently relies on ODFW for the shoreside whiting EFP. The states have a workload associated with tracking and monitoring the shoreside fishery. It is still uncertain who will do the EFP.

Dr. McIsaac asked Dr. Freese when the Amendment 10 rulemaking would be completed. Dr. Freese deferred to Ms. Yvonne de Reynier who responded that it depends on the Council process to narrow the range of alternatives. There is still a need for two Council meetings before rulemaking can proceed.

Dr. Burke said that ODFW has difficulty addressing the earlier California whiting season in the existing shoreside whiting EFP. Did the GMT discuss this? Ms. Ashcraft deferred to Ms. Carrie Nordeen who responded that the challenge is to do this by April 1 or March 15 of next year. These are the alternative season start dates discussed by the GMT. Dr. Burke said this EFP work needs to be done by CDFG.

C.2.c Public Comment

Mr. Rick Harris, Pacific Choice Seafood, Eureka, California

Mr. Barry Cohen, Olde Port Fisheries/Del Mar, Cambria, California

C.2.d Council Action: Consider and Recommend Opening Date for 2006 for Public Review

Ms. Vojkovich moved and Mr. Ticehurst seconded a motion (Motion 5) to adopt for public review an earlier start date of March 15 for the shoreside whiting fishery south of 40°30' N latitude. The motion includes the GMT recommendations contained in Agenda Item C.2.b, Supplemental GMT Report relative to a need for a salmon bycatch cap, depth restrictions, and an alternative start date of April 1. The motion also instructs the GMT to further analyze salmon interactions in this fishery and in other fisheries operating in this area (i.e., analyze the availability of salmon by time and area as mentioned by Mr. Thomas). Ms. Vojkovich stated this was an opportunity to explore a new sustainable fishery. If whiting do move north as the season progresses, the earlier start date of March 15 makes sense. However, if salmon bycatch or other issues make this earlier start date untenable, then go with an April 1 season start date.

Dr. Burke asked if this motion proposes a separate EFP from the current shoreside whiting EFP. Ms. Vojkovich said no; the intent is to change the season start date in this area in the current EFP.

Dr. Burke stated we have been developing an observer strategy for this fishery. She asked Dr. Clarke to discuss observer issues and camera monitoring with respect to this request. Dr. Clarke said the camera monitoring project is designed to only validate full retention requirements in the fishery. Minutes (June 2005 - 179th Council Meeting)

Camera monitoring does not supplant the need for at-sea observers and shore-based samplers to determine species composition of the catch. There is a high administrative cost associated with training observers, deploying them, and analyzing the data collected. These costs take funds away from other activities. Incorporating real-time observer data into the management system complicates the existing EFP.

Mr. Alverson asked Ms. Vojkovich what happens if the salmon bycatch cap is reached. Does the fishery close until April 15? Ms. Vojkovich said she did not know, but she wanted to explore the potential actions if a salmon bycatch is reached.

Ms. Cooney said this proposal has additional considerations than those under the existing EFP. This EFP needs to have different terms and conditions.

Dr. Freese asked Ms. Vojkovich whether the motion anticipates analysis prior to September, and Ms. Vojkovich said yes.

Dr. McIsaac asked about public review vs. GMT/scientific review. Mr. DeVore said the Council does need to signal where they want to go with this request so the public can provide informed comments prior to a final decision. The issue of who does the analysis and when that should occur needs to be sorted out. Ms. Cooney said the Council needs to decide whether this is a regulation and an EA or an EFP. Each pathway entails a different process. Ms. Vojkovich said she intends for this to be an EFP. Dr. Burke asked whether this should be a stand-alone EFP separate from the existing shoreside whiting EFP and Ms. Cooney said yes, since there are different issues to be explored. Mr. Anderson hoped the motion would include this being a separate EFP and Ms. Vojkovich and Mr. Ticehurst said yes.

Motion 5 passed.

C.3 Groundfish Essential Fish Habitat (EFH) Environmental Impact Statement (EIS) – Final Preferred Alternative (06/15/05; 9:25 am)

C.3.a Agenda Item Overview

Dr. Dahl provided the agenda item overview, including a summary of the alternatives in the groundfish EFH DEIS.

C.3.b Agency and Tribal Comments

It was noted that comments from the EPA and NMSP were in the briefing book.

Dr. Freese said he has witnessed a lot of different groups getting together to work on this issue and everyone has been working very hard to minimize impacts on groundfish EFH. He highlighted the GAP conversations, which were civil and very organized.

Mr. Anderson said he appreciated opportunity to participate in this action and thought it was long overdue. He was pleased that folks worked together and felt this effort connects very well with the recommendations of the US Commission on Ocean Policy. He also noted how attitudes about habitat have changed among Council participants, such as the GAP, how much agreement participants in the process have in terms of taking important steps supporting Council deliberations on the EFH EIS action. He recognized the work done by a lot of people in different agencies and the industry, both in terms presenting the information and support for Council decisions. He briefly reviewed Agenda

Item C.3.b, WDFW Report and Agenda Item C.3.b, Supplemental WDFW Report 2.

Mr. Jim Harp read Agenda Item C.3.b, Supplemental Tribal Comments.

Dr. Burke spoke about the process leading up to the EFH EIS decision. She said that ODFW has a report that was being completed at the moment and would be available in the afternoon. She expressed appreciation for NMFS participation in the public meetings ODFW organized. She said the Council is trying to develop criteria for this process and hopes we view this as a first step and not the end of the process. She hoped the input by the public and industry will supplement the decisions the Council will make today.

Ms. Vojkovich agreed with the comments relative to collaboration and involvement. She said California will have a report to hand out in the afternoon. California views this action as a beginning and as a flexible process that will continue.

C.3.c Reports and Comments of Advisory Bodies

Ms. Susan Ashcraft reviewed Agenda Item C.3.c, Supplemental GMT Report. Ms. Ashcraft also read into the record a new paragraph to replace one in the written report.

Dr. Steve Berkeley summarized Agenda Item C.3.c, SSC Report.

Dr. Burke said the SSC statement focused on Alternative C.12 and asked, did the SSC look at any of the other options or analyze how they were approached? Dr. Berkeley replied that their charge was to analyze the Oceana methodology. Dr. Burke asked where that charge came from and Dr. Berkeley said he assumed Council staff. Dr. Burke then asked if the SSC had a discussion about an assessment process for fine tuning designations or making future ones. Dr. Berkeley said the SSC did not.

Mr. Rod Moore read Agenda Item C.3.c, Supplemental GAP Report.

Mr. Brown asked, referring to discussion in the GAP Report about review of various measures, such as gear restrictions and closed areas, whether the GAP discussed having the EFH Technical Review Committee perform this function. Mr. Moore replied that the GAP had a long discussion, saying the principle they were trying to adopt was that some of the proposed measures need to be refined. Originally they wanted to come up with a straightforward process for doing that. But what they discovered during discussion was that the TRC would be great for some functions, such as identifying new HAPCs, but would not have the capability for making other recommendations, such as specific gear restrictions. In response they recommended the TRC make more specific recommendations related to HAPCs and the boundaries of closed areas in consultation with fishermen. But other items should go through the Council with comment from advisory bodies.

Dr. Burke noted the GAP statement was silent on the issue of restricting dingle bar gear and beam trawl gear and asked if they had a perspective on that. Mr. Moore replied the GAP felt there needs to be some sort of decision process with more analysis rather than inserting blanket provisions by means of the EFH EIS. Gear restrictions should be implemented through normal Council processes. As a follow-up, Dr. Burke said that those other processes are for dealing with fishery management issues rather than habitat protection, thus her concern. Mr. Moore replied that in many cases the line blurs between fishery management and habitat protection. He offered several examples. Following up again Dr. Burke noted that dingle bar gear can actually be relatively less harmful to habitat. She then asked about roller gear size and asked for elaboration. Mr. Moore said the GAP has consistently commented that the 15-inch roller gear limit made no sense and reiterates it now. Second, he thought

there was no difference between the habitat impact from 15-inch rollers versus 18-inch rollers. Furthermore, closing off habitat will be a more effective approach to protecting high relief habitat. Finally, several of the fishermen have testified that they use 18-inch roller gear, and the gear comes in even sizes, but there can be differences in the actual size due to manufacturing. The GAP thought that 19 or 20 inches would be the appropriate size limit if the Council were to implement a blanket limit, which the GAP does not agree with.

Mr. Anderson asked about the GAP statement with respect to tribal fishing under Alternative C.12, asking whether the GAP meant that tribal concurrence would be necessary to prohibit nontribal fishing in the tribal U & As or whether such an exception should only apply to tribal fishing. Mr. Moore replied that since the purpose of closing an area was to protect habitat and if the tribal fishermen were exempted only some habitat protection would be afforded, it would be better to work with the tribes to get concurrence on a closure applying to all fishermen.

Mr. Brown asked a question about the 15-inch roller gear size and Mr. Moore's previous response. He noted that roller gear limits prevent access to high relieve or biogenic habitat, therefore limiting the amount of habitat contact. The areas that would be protected through closed areas have to be rather large for enforcement reasons while a gear restriction prevents access to smaller areas. Furthermore, in other areas "street sweeper" gear with large rollers has been used and these measures would prevent the introduction of those gear types. He asked if the GAP had any discussion of that possibility. Mr. Moore replied that the initial discussion occurred about two years ago before Oceana had submitted their proposal for closed areas. At that time the GAP was looking at the issue in the context of gear alone and not specific area closures and agreed that restricting "street sweeper" gear would be a good idea. But the discussion in the last couple of days centered on the area closures and the GAP concluded that the closed areas pretty well cover the areas that might be of concern in terms of habitat protection, calling into question the need for further gear restrictions, which might require purchase of new gear.

Dr. McIsaac asked about a sentence at the bottom of page 3 in the GAP report discussing the possibility of parties meeting to develop a combined option in time for final Council action in September. Mr. Moore said that the GAP presumed that the Council would put out a preferred alternative at this meeting and adopt it finally in September, based on the timeline they were given. Dr. McIsaac then asked Dr. Dahl if this is the final Council action today and the September action would be a follow-up to develop the FMP amendment language. Dr. Dahl said that was correct. Mr. Moore replied if that is so, even if the EIS is adopted today, the FMP amendment could accommodate any future changes based on discussions between the trawl industry and Oceana if a review process is included in the FMP amendment.

Ms. Teresa Scott summarized Agenda Item C.3.c, HC Report through a PowerPoint presentation.

Mr. Brown asked why a canyon as a whole is considered a vulnerable habitat. Ms. Scott said the organisms in the canyon would be vulnerable. Mr. Brown then asked, if the committee concluded that areas that have been destroyed by fishing are permanently destroyed, why would there be any need to further protect those areas? Ms. Scott said the committee did not discuss that question. She also said the HC endorsed use of currently closed areas for habitat recovery. Mr. Brown then asked, if there is significant rebuilding occurring within those closed areas, doesn't that indicate the habitat impacts are relatively minor and recovery occurs rapidly? Ms. Scott said the information is not available to answer that question.

Dr. Burke noted the HC could not convene at this meeting due to budget restrictions and expressed appreciation for the HC report. Dr. Burke asked whether the HC discussed the use of trawl survey Minutes (June 2005 - 179th Council Meeting)

data on biogenic habitat as did the SSC. Ms. Scott said the issue is poorly understood and the current information is not sufficient. Dr. McIsaac amplified Dr. Burke's thanks for Ms. Scott providing the PowerPoint presentation and taking the time to come down to give this report.

Mr. Anderson asked a question about jurisdiction, which was raised in the HC report and others. He directed the question at Ms. Cooney. He asked, if the Council wanted to exclude specific areas of EFH, for example in state waters, from the gear prohibitions identified in Alternative C.9, would the Council have to explicitly exclude those areas? Ms. Cooney said EFH can be designated in both state and federal waters, but the authority to implement fishing regulations applies only outside the three-mile state waters boundary. The states would then have to implement conforming regulations for the area from 0 to 3 miles. The Council should make a clear recommendation to the states about what type of measures they would want to see enacted in state waters. Mr. Anderson then asked if the Council has the authority to pre-empt state authority if state action is inconsistent with an FMP. Therefore, if the Council designated an area in state waters EFH and HAPC and restricted certain activities in those areas, would there be a risk of the state being pre-empted? Ms. Cooney said the preemption authority only applies 0 to 3 miles, not in internal waters such as Puget Sound. The issue would be how severe is the impact of state action on federal management. If the state action seriously interferes with fishery management in federal waters, NMFS may pre-empt state law. But there is a process established to review any such action. Mr. Anderson then asked, if an area is designated as EFH, and then if the state takes an action, what, if any, obligation is there to consult with NMFS prior to taking that action? For clarification, he used oyster dredge as an example. If the state were to allow this gear type in an EFH area, would there be any requirement on the part of the state to consult? Ms. Cooney said the state did not have a requirement to consult with NMFS on EFH; if NMFS is aware of state action, then NMFS and the Council could provide comments. In response to a further clarifying question, Ms. Cooney said there is no requirement to notify the federal government.

Lt. Dave Cleary read Agenda Item C.3.c, Supplemental EC Report.

Dr. Burke said she understood from the EC report there were significant implementation issues and asked Lt. Cleary to speak further on the issue of closed areas. He provided examples to highlight some of the enforcement issues related to closed areas. She asked if the EC talked about any kind of minimum size for closed areas that is unenforceable. He replied it would depend on whether the VMS units could be programmed to create some geo-fencing around the closed areas. If that's not available, then the closed area would have to be wide enough so the vessel could be detected inside the area with the standard once-an-hour ping rate.

Mr. Alverson followed up Dr. Burke's comments, noting that, in Alaska, enforcement said thousands of boats would have to be equipped with VMS to comply with the EFH decision there; for the Channel Islands it may be necessary to have VMS on all vessel types. Lt. Cleary said that in the Channel Islands area there are many different enforcement agencies monitoring, so there may not be a need for VMS. In another area, such as Cape Blanco, Oregon, where there is not much enforcement presence it would be a different story. More information will be needed to make these types of decisions on a case-by-case basis. Mr. Alverson noted that at the last Council meeting, a VMS issue was voted down and it is supposed to come back again for review by the Council in September. Lt. Cleary said the EC is charged with providing advice and he wanted to make clear that if the Council establishes a lot of closed areas and the tools are not available for enforcement, the confidence of the EC that the closed areas could accomplish their purpose would be diminished.

Dr. McIsaac noted that at the April meeting the EC helped with some language for protection of Cordell Bank and Davidson seamount. He asked if the problem of defining certain gear types
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described in the EC statement is a solvable problem. Lt. Cleary said he thought it was. He added that the EC could provide advice on how to describe a particular gear if it is brought to the EC in a specific form.

Mr. Brown asked if the EC has any problem with the current restriction on footrope size. Lt. Cleary said he didn't think that type of regulation was problematic.

Mr. Brown called upon Mr. Moore to answer further questions about footrope size. He said that the current regulations restrict footrope on the shelf to eight inches and there is evidence that this has changed fishing patterns. This has been one of the most successful habitat protection measures, but no one has identified this measure as a habitat protection measure that would be part of this EFH EIS action. He asked if the GAP had discussed this, and second, if the GAP would find adding this measure to the action acceptable. Mr. Moore said the GAP did not discuss the restriction as a habitat protection measure, reiterating the GAP feels the gear restrictions need to be better evaluated. He said the GAP would not recommend including the eight inch restriction as part of the current action.

Dr. Burke noted ODFW's statement on final preferred alternatives was handed out during the lunch break (Agenda Item C.3.b, Supplemental ODFW Report).

Ms. Cooney made some comments on the process. She said the Council needs to adopt final recommendations for the final EIS at this time, because the FEIS needs to be released in December under the timeline in the court-approved settlement. That means if the final recommendations are not adopted now, it can't be accomplished in time for the December deadline. Cleaning up things or identifying specific boundaries of closed areas can be done later, but anything new would need new analysis in the FEIS, which could not be done in this time frame. Coming out of the FEIS is the FMP amendment, but that flows from the recommendations in the FEIS. The Council would be dealing with the amendatory language in September and November with the regulatory language coming out in May 2006. Some sort of adaptive management mechanism can be added to the FMP to change regulations in the future, but that is not pertinent to the decisions to be made now.

Dr. Burke noted the Supplemental ODFW Report presented options, rather than reflecting decisions taken.

Mr. Anderson, noting that the situation summary described the action as selecting final preferred alternatives asked, is that the action we need to take today? Ms. Cooney replied, yes the action is to choose the final preferred alternative for the final EIS.

Ms. Vojkovich discussed their written report, which was not yet available, and said she could provide a general overview in oral form. She said the state of California did not have the opportunity to hold meetings like Washington and Oregon had to obtain information. Instead they used the Council process and also information in state databases to assess the options the Council was considering. Current state considerations were option A.2, including seamounts for EFH designation. For HAPC designation she enumerated the following areas: seamounts, Monterey Canyon, several areas of the Cowcod Conservation Area (CCA), Cordell Bank, Mendocino Ridge, several of the oil platforms in southern California, and specific federal water areas at the Channel Islands that have been agreed upon by the state and the CINMS. For impact mitigation measures she listed using the 700 fm depth contour north of Pt. Conception and 300 fm depth contour south of Pt. Conception as a boundary for a trawl closure. Proposed gear restrictions included limits on roller gear, dredge gear, beam trawl except for an established fishery in San Francisco Bay, and discussion of a prohibition on dingle bar gear. They would propose closed areas. These include the Central California no-trawl zones, including Davidson Seamount. There would also be closure of areas where there has been agreement

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between Oceana and industry; but there are a couple of spots where the state is planning to revise the boundary because the state thinks that the protected area should be extended. In the southern California area the state proposes preventing any fishing gear in those areas of the Channel Islands that would be previously designated as HAPCs; but one of these areas would exempt certain surface gears from the closure. She also listed the Oceana proposed closures at Catalina Island. At the CCA West there are four areas the state proposes as no-trawl areas and also the CCA East. There would be a no bottom contact gear prohibition at Davidson Seamount and Cordell bank in water depths shallower than 50 fathoms; this supports the Cordell Banks Sanctuary proposal. (This information was subsequently provided in more detail in Agenda Item C.3.b, Supplemental CDFG Report.)

C.3.d Public Comment (06/15/05; 1:19 pm)

Mr. Chuck Cook, California Nature Conservancy, Ojai, California
Mr. Chris Kubiak, Morro Bay Fishermen's Association, Los Osos, California
Mr. Rod Fujita, Environmental Defense, Oakland, California
Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, Oregon
Mr. Dale Myer, Arctic Storm Inc., Seattle, Washington
Mr. George Steinbach, CARE, Sacramento, California
Mr. Don Kent, CARE, Sacramento, California
Mr. Jim Bassler, STMA, Fort Bragg, California
Mr. Bill James, fisherman, Keizer, Oregon
Mr. Rob Cozens, Ocean Wilderness Network, Manchester, California
Mr. Kenyon Hensel, Hensel's, Crescent City, California
Mr. Daniel Platt, STMA, Fort Bragg, California
Ms. Kathy Fosmark, Alliance of Communities for Sustainable Fisheries, Pebble Beach, California
Mr. Greg Helms,
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California
Ms. Janis Searles, Counsel for Oceana, Portland, Oregon
Mr. Jim Ayers, Oceana, Juneau, Alaska
Mr. Peter Huhtala, PMCC, Astoria, Oregon
Ms. Karen Garrison, NRDC, San Francisco, California
Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California
Mr. Marion Larkin, trawler, Mt. Vernon, Washington
Mr. Brad Pettinger, Oregon Trawl Commission, Astoria, Oregon
Mr. Peter Leipzig, Fishermen's Marketing Association, Eureka, California
Mr. Tom Raftican, United Anglers of Southern California, Huntington Beach, California
Mr. Mike McCorkle, Southern California Trawlers Association, Santa Barbara, California
Mr. Allen Hightower, F/V Sea Otter, Port Townsend, Washington
Mr. Scott McMullen, Oregon Fishermen's Cable Committee, Astoria, Oregon
Mr. Gerry Richter, Point Conception Groundfish Fishermen's Association, Santa Barbara, California
Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon

C.3.e Council Action: Adopt a Final Preferred Alternative

Dr. Dahl provided a briefing on what the Council task is at this point.

Ms. Cooney talked about some of the key provisions of the EFH regulations. She read from the regulations on minimizing the effects of fishing, focusing on the concepts of more than minimal and not temporary effects. She also discussed the concept of practicability.

Ms. Vojkovich asked Ms. Cooney about closing the area outside the "trawl footprint," referencing the area from the 1,000 fm depth contour to the EEZ boundary. She asked, if the EFH designation does
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not encompass the entire EEZ would the footprint action truly close the whole area or just the area designated EFH? Ms. Cooney replied that the action could be taken if it represents a precautionary step while trying to determine whether the area outside of designated EFH merits such designation in the future.

Mr. Anderson suggested moving through each of the four categories one at a time. He said he had some motions prepared but they are not intended to be all-encompassing and other Council members may want to make amendments to the motions.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 6) to adopt the following preferred alternatives to identify and describe EFH for West Coast groundfish. The following written motion, which Mr. Anderson referenced in discussion, was provided:

The following alternatives would be adopted as preferred

Alternatives to Identify and Describe EFH

A.2 Depths less than 3,500 m (DEIS p. 2-5)

Results – Designate 187,741 square miles in the EEZ, and to the mean higher high water line and upriver extent of salt water, as EFH. The deepest observation of groundfish is 3,400 m. By including areas out to the 3,500 m depth curve, this alternative includes all habitats where groundfish have been observed with the addition of 100 m depth as a precautionary adjustment in case of non-observed species.

A.3 100% HSP Area (DEIS p. 2-6)

Results – Designate 100% of the area where the habitat suitability probability (HSP) is greater than zero for all species based on the scientific rationale presented in the DEIS, Section 2.3.1 (DEIS p. 2-2). This area includes 87,160 square miles as EFH, all of which is within the area that would be designated by Alternative A.2. The intent of including this area is to secure the ability to add areas in the future which meet this criterion, as more information becomes available.

Mr. Brown asked if seamounts would be included under Alternative A.2. Mr. Anderson said it wasn't, but he recognized that it may have come up during public comment and that he forgot it from his motion but recognized there would be omissions and expected other Council members to add to the motion. The inclusion of seamounts was accepted as a friendly amendment to the motion. Dr. Burke mentioned that the situation summary noted subsequently adopted HAPCs could be outside adopted EFH and offered another friendly amendment that any HAPCs designated shall also be included in EFH. Mr. Anderson asked Dr. Burke for a clarifying example; Dr. Burke referred the question to Dr. Dahl. He offered as an example related to designating seamounts as HAPCs. Dr. Burke said she didn't have a specific example in mind, but thought it wise to include this amendment to cover all bases. The friendly amendment was accepted.

Ms. Vojkovich raised the issue about oil platforms being HAPCs. She noted that they would be contained within EFH as moved, asking whether they would be separate EFH. Mr. Anderson said this first step was to identify and describe EFH in a broad sense. If an area was not by default contained within EFH it would be included subsequently if designated a HAPC. Notwithstanding, he understood that the oil platforms would be included in the description of EFH as moved, but the decision as to whether they are HAPCs would be a separate decision.

Motion 6 passed.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 7) to adopt the following alternatives to designate HAPCs for West Coast groundfish. The following written motion was provided:

Alternatives to Designate HAPC

B.2 Estuaries (DEIS p. 2-7)

Results – For many fish species, estuaries provide important habitats for marine organisms, including groundfish. These important ecological functions are vulnerable to damage from a wide range of human activities because estuaries receive runoff from adjacent land areas and are often close to human population centers. Anthropogenic impacts to estuaries may include nutrient loading, introduction of non-native species, and changes in water temperature, increased turbidity, etc.

B.3 Canopy Kelp (DEIS p. 2-7)

Results – Kelp forests are of primary importance to the ecosystem and serve as important groundfish habitat. The stands provide nurseries, feeding grounds and shelter to a variety of groundfish species and their prey. Giant kelp communities are highly productive relative to other habitats, including wetlands, shallow and deep sand bottoms, and rock bottom artificial reefs. Their net primary production is an important component to the energy flow within food webs.

B.4 Seagrass (DEIS p. 2-8)

Results – Seagrasses provide habitat for many invertebrates and epiphytes and provide many crustaceans, fish, and birds with protection and food. Studies have shown seagrass beds to be extremely high primary productivity areas.

B.6 Rocky Reefs (DEIS p. 2-9)

Results – Managed species known to use nearshore hard bottom habitat in the coastal zone include black rockfish, black-and-yellow rockfish, brown rockfish, cabezon, calico rockfish, California scorpionfish, chilipepper, copper rockfish, gopher rockfish, kelp greenling, leopard shark, lingcod, olive rockfish, quillback rockfish, redstripe rockfish, rosethorn rockfish, shortbelly rockfish, silvergray rockfish, and spotted ratfish.

Add Washington coastal state waters (shoreline to 3 miles)

Results – The habitats within Washington's coastal state waters are ecologically important and are particularly sensitive to human-induced environmental degradation. The bays and estuaries provide important habitats to juvenile flatfish and the oceanic waters provide habitat for adult nearshore rockfish, juvenile rockfish, lingcod, and adult flatfish. The addition of this area would include specific areas not covered under Alternatives B.2, B.3, B.4, and B.6 as designated Habitat Areas of Particular Concern.

Mr. Brown asked to include in Motion 7 Alternative B.9 – Process for New HAPC Designations as part of the motion. The maker of the motion said he was happy to formulate the motion as the designation of the above areas and the description of a process to consider addition or deletion of HAPCs by future Council action. The seconder agreed.

Mr. Warrens noted he had a motion he would introduce later on this topic.

Dr. Burke asked to include in Motion 7 the area of Daisy Banks, which is identified under alternative B.7 in the DEIS. Maker and seconder agreed.

Ms. Vojkovich asked to include in Motion 7 under B.7 the following areas: seamounts within Minutes (June 2005 - 179th Council Meeting)

California state borders, Monterey Canyon, four specific areas of the eastern CCAs identified by CDFG, the proposed areas in the Channels Islands NMS under C.14 that California has identified as potential MPA sites, Cordell Bank, and Mendocino Ridge. She also asked to include alternative B.8, oil production platforms, noting that only a portion of those identified in alternative B.8, 13 structures, would be designated.

The maker and the seconder agreed to add the items under B.7, but not to add alternative B.8. Dr. McIsaac provided clarification on the status of the motion.

Dr. Burke then interjected to add the Thompson and President Jackson seamounts as identified in Alternative B.7 in the DEIS to the motion. The maker and seconder agreed.

Ms. Vojkovich brought up the oil production platforms issue again. Ms. Vojkovich moved and Mr. Thomas seconded an amendment to Motion 7 to include a modification of Alternative B.8, designating 13 specified oil production platforms as HAPCs, as identified by CDFG.

Dr. Burke spoke against the amendment. She was concerned about setting a precedent of identifying manmade structures as HAPCs when there are so many other natural places and items that could be designated as HAPCs. Second, she had environmental concerns, such as release of oil and other containments.

Mr. Brown spoke against the amendment because he felt there would be a problem with a designation that gives special treatment to an area. He asked whether this would lead to designating sunken boats. He discussed the problems associated with creating artificial reefs in Oregon waters.

Mr. Ticehurst spoke in favor of the amendment. He thought the Council could identify HAPCs that offer quality habitat and distinguish them from spurious designations. The reality is that oil platforms are habitat for fish. Artificial reefs on the east coast provide a lot of important habitat. In the future we might want to designate an artificial reef on the West Coast as a HAPC. If it's important habitat it doesn't matter whether it is natural or man-made.

Mr. Anderson asked Ms. Vojkovich what special protections would be afforded oil platforms if they were designated HAPCs. She responded HAPCs are just a focus on particular habitat types that would receive more consideration through the federal process when some activity might be planned that would have some impact in that area. There is no real protection itself, it's only promotes discussion of the importance of the habitat. She noted the proponents provided written documentation discussing how HAPC designation would require an elevated level of scrutiny during any decommissioning process.

Dr. Freese said he was struggling with the vote and discussed the pros and cons of designating oil platforms as HAPCs. He cited discussion in the EPA comment letter on this point.

Dr. Burke mentioned that we already have identified several other habitat types with likely positive benefits. She felt that the decision was not entirely related to the protection of groundfish habitat but was meant to influence a future decision that is outside this process. Mr. Brown agreed, providing another example of how human activities can increase a certain biological community while damaging habitat overall.

Ms. Vojkovich said oil platforms provide unique vertical habitat; there are various ages of fish at different depths along the platforms.

Vice Chairman Ortmann spoke against the amendment, saying he didn't see the oil platforms as essential fish habitat.

Chairman Hansen called for a roll call vote on the amendment to Motion 7: 7 yes, 6 no. The amendment passed. The main motion, Motion 7, passed. Dr. McIsaac asked for clarification that the friendly amendments were included in Motion 7 when it passed.

Mr. Warrens moved and Mr. Harp seconded a motion (Motion 8). He provided a written motion, which read as follows:

1. Draft the Groundfish FMP Amendment to include language for implementation of an EFH Review Committee and an adaptive management process. The Council should consider using the existing Ad Hoc Groundfish Habitat Technical Review Committee, with any necessary changes in membership, for this purpose. This committee would meet as appropriate to:
 - review specific areas included as HAPCs,
 - review the scientific basis of any area designated as a non-bottom trawl area; and,
 - consider additional HAPCs or other protective measures.
2. If this committee determines an area designated as a non-bottom trawl area is not supported by scientific data, the committee by majority vote, may recommend the Council modify, move, or eliminate that area.
3. The Council may initiate an action through a framework process to be included in the fishery management plan amendment to modify management measures through a rulemaking.

Mr. Warrens said he made the motion based on comments he heard from the public testimony, the GAP, GMT, and SSC Reports. The elements of the motion would be included in the FEIS preferred alternative with more detail as appropriate.

Ms. Cooney said she understood this to be a basic concept, and different versions of it may be developed for the draft FMP amendment itself.

Dr. Burke said ODFW supports this process concept and pointed out several parts of the Supplemental ODFW Report that put forward similar concepts.

Mr. Brown then asked for a friendly amendment to change part of the motion to read as follows:

(2) Unless the Committee determines an area designated as a non-bottom trawl area is supported by scientific data, the committee will recommend the Council modify, move, or eliminate that area.

He asked for this because it provides a sunset provision so that mitigation measures don't stay in place forever for no reason.

The friendly amendment was accepted by the maker and seconder.

Mr. Brown spoke to his amendment, providing an example of a situation where there would be little legal basis for a mitigation measure.

For clarification, Ms. Vojkovich asked if this process would apply to all actions proposed in the EIS

document. Would this cause all of the measures to expire if no action is taken? Mr. Brown provided clarification, saying it would not automatically cause them to be rescinded. Ms. Vojkovich asked if the committee would begin reviewing all actions proposed by the Council today.

Mr. Warrens, responding to Ms. Vojkovich, said the intent of his motion was to allow a body to bring problems and concerns to the Council, so it wouldn't actually cause all actions to be reviewed, only those brought before the Committee. Mr. Brown said you have to have someone else legally reviewing these items anyway, so basically it is in there.

Mr. Anderson asked Mr. Warrens, in reference to the Alternative B.9 process for HAPC designations, would the process he is proposing also include the process for designating new HAPCs? Mr. Warrens answered yes, referencing the third bullet under item #1 in the motion.

Mr. Anderson then said he felt the friendly amendment is a mistake, causing him to vote against the motion. He thinks predetermining what a committee will or won't do in terms of a recommendation to the Council, particularly in this matter, will send a bad signal to the people who have been involved in the process thus far. Furthermore, if there is no scientific basis for a closed area, he hopes the Committee would bring it to the Council's attention and the Council can take action.

Mr. Brown then withdrew his suggestion as a friendly amendment and offered the same language as an amendment, Mr. Warrens seconded the amendment, as above: (2) Unless the Committee determines an area designated as a non-bottom trawl area is supported by scientific data, the committee will recommend the Council modify, move, or eliminate that area.

Mr. Anderson said since EFH measures are reviewed every five years anyway, he wasn't sure why the amendment was necessary. He felt a review every four years would be best to match the biennial management process.

Mr. Brown said his original intention for the amendment was to require a sunset provision and force a review. Mr. Alverson asked how Mr. Brown's language was different from what was in the original motion. Mr. Brown reiterated that the committee would have to provide scientific justification for maintaining a closed area.

Dr. Burke said the key word seems to be "may;" that does not predetermine the vote. She said she was supportive of Mr. Warrens' original motion. Dr. Hanson asked about the time frame. Mr. Warrens responded that once the FMP was amended, the committee would act on requests from industry. Dr. Hanson asked about the effect of the amendment. Mr. Brown said if the committee did not meet to review the measures the measures would expire.

Dr. Freese spoke to the main motion about how to create a practical process from the proposal.

With that said, Mr. Brown withdrew his amendment and it was not voted on.

Mr. Anderson pointed out Alternative B.9 and asked if Mr. Warrens had examined that process and whether his motion included any of those elements. Mr. Warrens said that it was certainly his intent to address what Mr. Anderson said in his comments. Mr. Anderson made a friendly amendment to the motion to include the process elements described in Alternative B.9; he summarized the four components of the process described in the DEIS. He said he thought that that process coupled with Mr. Warrens' proposal would allow consideration of new HAPCs as well as existing HAPCs.

Mr. Warrens said his intent was to streamline the process through rulemaking.
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Ms. Cooney said Alternative B.9 talks about HAPCs while Mr. Warrens' proposal talks about both HAPCs and management measures. Furthermore, Alternative B.9 talks about modifying HAPCs through a plan amendment while Mr. Warrens' proposal talks about modifying management measures through a regulatory amendment. Both would require similar processes. Mr. Warrens said he was proposing a more direct process rather than having to go through a whole plan amendment process.

Mr. Anderson withdrew his friendly amendment.

Ms. Cooney asked if Mr. Warrens intended to keep the HAPC process as an amendment process as under Alternative B.9 and his motion would just address management measures. Mr. Warrens said the process in his motion was to address challenges to the designated nontrawl areas in addition to HAPCs, to determine if the nontrawl areas were scientifically supported. HAPCs would be addressed to the degree they fall under regulations.

Mr. Anderson asked if the HAPCs would fall under a plan amendment and whether the Council is suggesting it wouldn't take a plan amendment to remove one? Ms. Cooney said it would take a plan amendment to remove one. The motion talks about reviewing HAPCs but the last bullet talks about changing management measures, which are under regulations, through rulemaking.

The Council voted and Motion 8 passed.

Mr. Anderson moved and Dr. Burke seconded a motion (Motion 9) to adopt the following measures to minimize adverse impacts to essential fish habitat for West Coast groundfish. The following written motion was provided:

Alternative C.4.1: Prohibit expansion of trawl fishing (DEIS p. 2-20)

For waters within the EEZ, freeze the bottom trawl footprint on the western side only, at a depth contour approximating 700 fms. (i.e., bottom trawl gear would be prohibited in depths greater than 700 fms).

Results – The amount of habitat that would be protected where the sensitivity value is greater than 1.0 and recovery is in excess of 1 year is 89%

Alternative C.9 Gear restrictions (DEIS p. 2-22)

For waters within 0-200 miles offshore coastwide, the following gear restrictions would apply:

- Prohibit bottom trawl roller gear with a footrope diameter greater than 19 inches
- Prohibit dredge gear
- Prohibit beam trawl gear

Mr. Anderson modified this portion of the motion as written, to read as shown above.

Alternative C.12

Close ecologically important areas to bottom trawl

Mr. Anderson identified the areas described in Agenda Item C.3.b, Supplemental WDFW Report 2: Olympic 2, Biogenic 1, Biogenic 2, Biogenic 3, and WDFW Grays Canyon. Relative to Grays Canyon WDFW would provide a description of the boundary through latitude-longitude waypoints.

Mr. Anderson spoke to the rationale for the areas proposed to be closed to bottom trawl.

Ms. Vojkovich made a friendly amendment, based on Agenda Item C.3.b Supplemental CDFG Report, specifically measures to minimize adverse impacts to EFH due to fishing.

The friendly amendment as presented is as follows:

Under Alternative C.10: Central California no-trawl zones as follows: Adopt the trawl closures contained in current The Nature Conservancy/Environmental Defense proposal for areas 1, 2, and 3 off central California between Pt. Sur and Pt. Conception, including Davidson Seamount.

Under Alternative C. 12 as modified through agreement between Oceana and trawl industry representatives with modifications to some areas by CDFG as noted below. Ecologically important areas are closed to bottom trawl adopted:

Note: The numeric identifiers refer to the supplemental EFH Decision Map provided under Council discussion.

Crescent City Deep Biogenic Area (32) in the CDFG Supplemental Report is removed from the motion because almost all of it is in depths greater than 700 fm, which would be closed under the provisions of the main motion.

Eel River Canyon (34) with state modification
Blunts Reef (35)
Mendocino Ridge (36)
Tolo Bank (labeled 0 as an addition to Alternative C.12 as presented)
Point Arena Offshore (39)
Biogenic Area 12 (40)
Cordell Bank (41)
Farallon Is./Fanny Shoal (42)
Half Moon Bay (43) with state modification
Monterey Bay/Canyon (45) with state modification
Point Sur Deep (44)
TNC/ED areas between Pt. Sur and Pt. Conception
CCA West Sub-Areas (from 50):
Potato Bank (50-1 as subarea to the area labeled 50)
Cherry Bank (50-2 as subarea to the area labeled 50)
Hidden Reef/Kidney Bank (50-3 as subarea to the area labeled 50)
Catalina Island (51)
CCA East (52)

For all areas closed to bottom trawl there is an exemption for Scottish seine gear, which would not be considered bottom trawl gear for this purpose.

Under Alternative C.13: Close Ecologically Important Areas to Bottom-Contacting Gear as follows:

Davidson Seamount
Cordell Bank – waters shallower than 50 fathoms with exemption for vertical hook-and-line

Under Alternative C.14, Close ecologically important areas to fishing:

The Federal waters portion of the proposed Channel Islands MPA project

Ms. Vojkovich then referenced maps provided by CDFG during Council discussion for further explanation of the state modifications to certain areas as described above. These modifications are described on page 5 of the CDFG Supplemental Report.

She then described the areas south of Pt. Conception. First she described the subareas in the CCA, providing the rationale for identifying those specific areas. She said that, first, these areas meet the goals of mitigating impacts to EFH, and second, California is interested in discussing boundary changes for the CCA at the September Council meeting. This proposal focuses on the areas of highest biogenic habitat within the CCA to ensure they are protected after any new CCA boundaries are implemented.

She discussed the areas to be closed to fishing in federal waters around the Channel Islands. She reviewed the rationale as presented in the CDFG Supplemental Report. She also noted there was one “footprint” area that is not contiguous to an existing state MPA and is totally in federal waters by itself. She enumerated the goals of the CINMS and stated they were consistent with the EFH conservation goals. These federal waters MPAs would be implemented under provisions of EFH which allow for the designation of zones for use as MPAs to limit impacts to vulnerable resources in those areas designated as HAPC. The levels of protection in these MPAs would be the same as those for the corresponding state MPAs. This will result in the seamless area of easily understood protection from the outer federal water boundaries to the shore for each area. Enforcement effort would also be facilitated by this geographic simplicity. She referenced the process used to identify the proposed areas and stressed the need for continued involvement by all parties, as well as the need for continued research and monitoring. She noted two Council members sit on the Sanctuary Advisory Council, which played a major role in selection of these sites and stressed continued cooperation.

She then noted that Rod Fujita asked for the Council to consider the concept employed off the central coast to identify new areas, which has been a productive relationship. The concept that was employed in that case should be supported and used in the future.

Dr. Burke then proposed a friendly amendment to Motion 9. She said she would work from Agenda Item C.3.b, Supplemental ODFW Report, which also includes maps representing the areas to be proposed in the motion. She referenced the criteria discussed in the report used to determine the choice of sites.

She then enumerated the sites listed on page 4 of Agenda Item C.3.b, Supplemental ODFW Report, which are proposed to be closed to bottom trawl. The following changes are made as part of the motion: the addition of the areas as described by the Oregon Fishermen’s Cable Commission map provided under public comment, and the removal of the Siletz Bay nearshore area (T-7).

She then provided the rationale for not including other sites identified by Oceana but not in the motion.

She then reviewed the gear-type prohibitions listed on page 4 of Agenda Item C.3.b, Supplemental ODFW Report, which are part of the motion: bottom trawl roller gear larger than 19 inches and beam trawl gear.

She then added a closure of Thompson Seamount and President Jackson Seamount to all bottom-contact gear. The closed area will be based on the map included in the DEIS.

Mr. Anderson agreed to accept it as a friendly amendment.

Mr. Brown proposed as a friendly amendment a prohibition of footrope larger than 8 inches eastward of a line approximating 100 fathoms. The friendly amendment was accepted by the maker and seconder.

Ms. Vojkovich asked how Mr. Brown's amendment would reconcile with the proposed measure to prohibit footropes larger than 19 inches. Mr. Anderson described how it would work. Mr. Brown said the purpose of this is to memorialize what is already in regulations, which probably will not be changed in the near future. Although implemented for bycatch avoidance, it has been effective in keeping bottom trawl out of rocky habitats.

Mr. Ticehurst, for protecting rocky habitat, asked whether the Council should consider including dinglebar as a prohibited gear type.

Ms. Vojkovich said, relative to the last amendment, she needs to talk to participants in state-managed fisheries before the Council votes.

Ms. Vojkovich's then clarified the part of her friendly amendment related to the closure of Davidson seamount (under Alternative C.13). In addition to prohibiting bottom contact gear, some amount off the bottom would also be closed, consistent with what the NMSP asked the Council to do to address their management goals.

Mr. Brown asked for an amendment to Motion 9: make the boundary of the trawl footprint closed area 1000 fm, instead of 700 fm. Mr. Warrens seconded the amendment. Mr. Brown spoke to the rationale for the motion, noting the possibility of drifting past the 700 fm contour even if the net stays in shallower depths.

Ms. Vojkovich commented that CDFG has very little data showing trawl tracks outside the 700 fm area. She was concerned a lot of area would be opened up if the boundary was moved to 1,000 fm. Mr. Brown said he did not know the area down south but in the areas he was familiar with the horizontal distance between 1,000 and 700 fm was small.

Mr. Anderson said the same issues apply to the RCA boundaries, so he said he would not support the motion. He also said in Washington there were very few trawl tracks outside of 600 fm; 700 fm gave a 100 fm buffer.

A roll call vote on the amendment to Motion 9 resulted in: 5 yes, 8 no. The amendment failed.

Dr. Burke asked Lt. Cleary to talk about shrimp vessels. Lt. Cleary spoke to the issue of VMS; currently there are some bottom trawl gear types that do not have to carry VMS and this could cause an enforcement problem. He talked about procedural aspects of considering this issue. Dr. Burke suggested this be a management measure issue to be taken up later and hopefully not cause problems with implementing the EFH.

Mr. Anderson asked if consideration of VMS on all bottom trawl vessels could be put on the September agenda. Dr. McIsaac noted that the current motion covered mitigation measures and there was another part of the action to consider, research and monitoring, where expanded VMS is considered. Therefore, this issue could be considered under a future motion rather than the current one.

Mr. Brown asked if the main motion specified that the identified closed areas applied to bottom trawl rather than all trawl gear types. The Chair made clear that it did.

Mr. Brown asked Ms. Vojkovich about the configuration of the proposed area closure relating to the Eel River Canyon area (identified as a combination of areas #34 and T-15 on page 4 of the supplemental agenda item EFH Decision Maps). Ms. Vojkovich clarified the configuration of the closure was the one that had been previously agreed upon in developing the proposal.

Next, Mr. Brown asked about the Monterey Canyon area (identified as T-23 on page 5 of the supplemental agenda item EFH Decision Maps). Ms. Vojkovich clarified what areas would be included in the closed area, as modified by CDFG.

The Council voted on the main motion, Motion 9, which was passed.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 10) to adopt a preferred alternative regarding research and monitoring with the following elements: (1) consider requirement of VMS on all bottom trawl vessels, (2) expansion of logbooks to non-trawl vessels to the extent it is feasible with existing resources, and (3) make a priority of focusing research on the impacts and results of the trawl closures.

Ms. Vojkovich asked for clarification on the portion of the motion related to VMS, would it be to consider expansion of VMS to all bottom trawl? Mr. Anderson said yes. She then said she assumed there would be a process for doing that at a later date. She then said she would have a difficult time voting for the portion of the motion expanding the logbook program, because of the difficulty of implementing it in California. While she appreciated the value of logbooks, she said she was concerned about embarking on another unfunded mandate. Mr. Anderson clarified the motion, saying the motion was to consider expansion of logbook systems to nontrawl gear to the extent feasible and as resources become available. Ms. Vojkovich was satisfied with this clarification.

Ms. Vojkovich said she supported Mr. Anderson's motion on research and monitoring areas, looking for a way to evaluate them, and encouraging needed research. She noted the SSC will be updating the research and data needs document relative to habitat, which can be used to get funding for this research. She also reminded everyone there is a research plan for the Channel Islands MPAs that will provide information on the value of fished versus non-fished areas.

Dr. Burke asked Mr. Anderson to re-read the part of the motion related to research. Mr. Anderson restated it. Dr. Burke then asked Dr. McIsaac about the timing and process for establishing VMS for all bottom trawl vessels. Dr. McIsaac said that would be a potential September agenda item. If this motion passes it is a more direct instruction that VMS be considered in the immediate future; but without this motion future consideration of this issue was planned anyway.

Dr. Burke took the opportunity to thank the staff who prepared the EIS and also recognized that this was Mr. Brown's last meeting as a Council member and expressed gratitude for his contributions.

Ms. Vojkovich clarified that the non-fishing portion of the Channel Islands reserves adopted under the previous motion was the first step and the CINMS would take complementary action to make them totally no-take reserves. Today's action was made under the authority the Council has.

Motion 10 passed.

Mr. Anderson asked that the Council allow the EC to work with Mr. Copps and NWR staff to describe the closed areas adopted earlier in such a way as to make them enforceable.

Mr. Harp moved and Mr. Warrens seconded a motion (Motion 11) that no closure be established in any tribal U&A area without consultation and agreement by the affected tribe(s) pursuant to Executive Order 13175 and that assessment and monitoring programs be developed by NOAA in conjunction with the tribes to measure the appropriateness and effectiveness of habitat protections within U&A areas.

Mr. Anderson asked for clarification of the motion: did it mean that closures north of Grays Harbor, adopted under Motion 9, would not be enacted even if they were not applicable to tribal fisheries? Mr. Harp said that was the intent of the motion, which was made at the request of the tribes. Mr. Anderson said he was opposed to the motion. He supported the idea of consultation but not the aspect which would prevent implementation of the closed areas without tribal agreement.

Dr. Hanson clarified parliamentary procedure, since the Council already voted on the motion adopting the closed areas (Motion 9), there would need to be a vote to reconsider the main motion and then amend that motion.

After the explanation by Dr. Hanson, Motion 11 was withdrawn by the maker, and seconder agreed.

After a Council break, Ms. Cooney asked Mr. Harp if the consultation process could take place at the meeting to see if this could get resolved this week. Mr. Harp said the Tribes agreed they would try.

Mr. Harp moved and Mr. Warrens seconded a motion (Motion 12) to reconsider Motion 9. Motion 12 failed; 5 yes, 8 no.

The Council adjourned for the day.

Mr. Anderson reopened the discussion on EFH where it left off the previous evening with respect to the applicability of the closed areas identified in the Council motions to tribal fisheries north of Grays Harbor in the Tribal U&As. He referenced a statement in the draft EIS on page 2-2 that speaks to that matter. It makes clear that any closed areas for specific types of fishing gear would not apply to tribal fisheries and that in the event that those closures were to apply to tribal fisheries that would be a decision made under the individual tribal jurisdictions and restrictions. In thinking about the context of the motion, it was not specifically spelled out that those closures would not apply to those four Tribes. He asked Dr. Hanson about the proper parliamentary procedure and he said that a motion to amend something previously adopted by the Council would have to be made.

Mr. Anderson moved (Motion 13), seconded by Mr. Cedergreen, to amend Motion 9 to specify that the closed areas adopted as part of that motion do not apply to tribal fisheries in the U&As described in 50 CFR 660.324(c). The Chairman asked for discussion. There was none. The Council voted and Motion 13 passed.

C.4 Status of 2005 Groundfish Fisheries and Consideration of Inseason Adjustments (06/16/05; 8:20 am)

C.4.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

C.4.b Report of the Groundfish Management Team

Ms. Susan Ashcraft provided Agenda Item C.4.b, Supplemental GMT Report. Mr. Merrick Burden joined her at the podium to field any questions. He corrected impact estimates provided on page 4 of the GMT report.

Mr. Anderson asked about the higher landings of yellowtail rockfish in this year's limited entry trawl fishery and noted they appear to be made by a small number of vessels. Are there larger landing of canary rockfish on these fish tickets? Mr. Burden said yes, there is an association of canary rockfish with yellowtail rockfish. Dr. Burke asked if the yellowtail rockfish limit is lowered, wouldn't that increase discards. Mr. Burden said yes. The GMT looked at the EFP results to determine an appropriate trip limit for yellowtail rockfish. However, it is still believed this action will increase discards. Mr. Anderson noted there are seasonal differences in yellowtail rockfish availability. Would a 1,000 pound trip limit accommodate most of the vessels in the fleet? Mr. Burden said yes, only a few vessels attain \geq 1,000 pounds of yellowtail rockfish.

Ms. Vojkovich asked about the variability of June total catch projections and actual annual catch. Mr. Burden said he did not know explicitly, but the summer is a high catch period.

Ms. Vojkovich asked about darkblotched rockfish total catch projections. Ms. Ashcraft said there is no concern for darkblotched since total catch is projected to be well below the OY. However, there is a concern about canary rockfish total catch.

Mr. Alverson asked if the GMT was aware of selective flatfish trawl gear modifications designed to more efficiently catch yellowtail rockfish. Ms. Ashcraft said there was anecdotal evidence of a small number of vessels modifying their gear, but this is not supported by empirical evidence.

Dr. Burke asked how the potential trawl effort shift was modeled. Mr. Burden said he assumed 90% of the total effort would shift inshore of the RCA.

C.4.c Reports and Comments of Advisory Bodies

Dr. Kevin Hill provided Agenda Item C.4.c, Supplemental SSC Report. Mr. Rod Moore provided Agenda Item C.4.c, Supplemental GAP Report.

Although there was no written report from the Enforcement Consultants, Lt. Cleary provided an oral report in response to concerns raised in the GMT report. He noted a concern with a proposed trigger mechanism to move the RCA boundaries inseason. He explained there would be serious enforcement difficulties with a line change in the middle of a management period. He also spoke to the issue of selective flatfish trawl gear modifications to catch yellowtail more effectively. There was an enforcement effort to patrol and educate fishermen on this new gear. No violations were detected.

Cdr. Fred Myer asked Lt. Cleary if the EC helped to coordinate the specification of the 180 fm line. Is the line perfectly straight? Lt. Cleary said the EC did provide input and the line is as straight as they could make it.

Ms. Cooney responded to the EC concern of a trigger mechanism to change the RCA line. She said it is difficult to do a monthly RCA change in the middle of a management period.

C.4.d Public Comment

None.

C.4.e Council Action: Adopt Preliminary or Final Inseason Adjustments for the 2005 Groundfish Fishery

Dr. Burke asked Mr. Burden if there were more yellowtail rockfish expected to be caught in the summer. Mr. Burden said he could look into the seasonal distribution of landings and report back to the Council. Dr. Burke also requested the GMT look more closely at the yellowtail trip limit. While the selective flatfish trawl is designed to avoid rockfish, a much higher abundance of yellowtail rockfish may be causing these higher landings. She is concerned about creating a discard problem by decreasing the trip limit. Mr. Anderson said he agreed with these concerns, but he was also concerned with canary rockfish bycatch. He asked the GMT to analyze fish tickets with high landings of yellowtail to determine whether these landings are correlated with increased landings of flatfish. If this is correlated, then higher landings of yellowtail rockfish truly represents bycatch. Mr. Burden said he would do this analysis.

Mr. Alverson, asked what action was taken to prohibit modification of the selective flatfish trawl. Lt. Cleary said there was action taken to prohibit floats on the trawl panel.

Mr. Anderson said the Council needs to understand the proposed trigger for moving the RCA line. What is the potential of triggering this option by July? Mr. Burden said current projections show this is unlikely. The GMT is proposing the trigger mechanism to be precautionary. Mr. Anderson asked the GMT to consider other options given the difficulty in moving the RCA line during the middle of a management period.

Dr. Freese asked the GMT to provide a scenario of how catch would be monitored inseason and actions taken in time to move the RCA line via the proposed trigger mechanism.

The Council decided to defer any final action on inseason adjustments until Friday under Agenda Item C.7.

C.5 TIQ Program Development (06/16/05; 1:30 pm)

C.5.a Agenda Item Overview

Mr. Jim Seger provided the agenda item overview.

C.5.b Report of the Ad Hoc Groundfish TIQ Committee

Mr. Seger provided a summary of the recommendations of the TIQ report as contained in Agenda Item C.5.b, TIQC Report.

C.5.c Reports and Comments of Advisory Bodies

Mr. DeVore provided a summary of the recommendations of the Ad Hoc Allocation Committee as provided in Agenda Item C.5.c, Ad Hoc Allocation Committee Minutes. Dr. Hill answered questions regarding Agenda Item C.5.c, SSC Report. Ms. Ashcraft provided a summary of the recommendations as shown in Agenda Item C.5.c, GMT Report. Mr. Moore provided Agenda Item C.5.c, Supplemental GAP Report.

C.5.d Public Comment

Mr. Alan Hightower, F/V Sea Otter, Port Townsend, California
Mr. Marion Larkin, trawler, Mt. Vernon, Washington
Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, California
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Dr. Ray Hilborn, WWF, Seattle, Washington
Mr. Frank Dulcich, Pacific Seafood Group, Clackamas, Oregon
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California
Ms. Leesa Cobb, Port Orford Ocean Resource Team, Port Orford, Oregon
Mr. Peter Huhtala, PMCC, Astoria, Oregon
Mr. Brent Paine, United Catcher Boats, Seattle, Washington
Mr. Rod Fujita, Environmental Defense, Oakland, California
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon
Mr. Jay Bornstein, Bornstein Seafoods, Bellingham, Washington

C.5.e Council Action: Approve a Range of Alternatives for Analysis and Public Review

Mr. Alverson moved and Mr. Cedergreen seconded a motion (Motion 19) to authorize for analysis the West Coast trawl rationalization options that are found in the TIQC report, June 2005 (Agenda Item C.5.b) with the following three changes: (1) on page 14 (Option Table C-1, Section B.1.1), add a suboption that would provide 10% of the quota shares to the processors (so that the analysis would include 10%, 25% and 50% to processors) and a second suboption would allocate up to 50% of the IFQ for whiting to processors but no nonwhiting species; (2) on the bottoms of page 8 and 9 (Decision Table A) drop the ITQ for halibut; (3) analyze the alternatives against the stated goals and objectives but add to the objectives #9, Quality for the Consumer, and #10, Safety (page 2 of C.5.a, Attachment 1). Also, include from the GMT report recommendations 1 a, b, and d. Direct council staff to publish notice of the Council intent to develop an EIS for the necessary intersector allocations as soon as possible.

Mr. Alverson then spoke to his motion. Adding the option to provide processors with 10% of the initial allocation fills out the range of options to address concerns among the states and processors about product flow. He stated that in other ITQ programs attempts are made to control a fishery either through limits on directed catch or limits on bycatch. He thought it difficult enough to develop an IFQ program on directed species, let alone a restraining species, and that it would be better to get the industry to respond to the positive incentive provided by the IFQ program for the directed species. The objectives were added because safety was a national standard and the consumer objective has not gotten too much attention.

Dr. Burke asked to eliminate analysis of the use-or-lose option (Section B.2.2.3 of Option Table C-1) (amendment #1 to Motion 19, seconded by Mr. Anderson) because of anticipated implementation complexities and difficulties. Analysis should be restricted to those things that are more likely to be adopted. Mr. Brown noted that such provisions also provide a disincentive for independent conservation actions by fishermen. Mr. Alverson concurred with the motion but noted that in the Alaskan halibut/sablefish program some quota share had gone unused for a decade for reasons that may have to do with fish migration patterns. Amendment #1 to Motion 19 passed.

Dr. Burke moved (amendment #2 to Motion 19, seconded by Mr. Cedergreen) that the analytical team, in consultation with the SSC, draft a range of appropriate alternatives for community involvement in ITQ systems for Council consideration at the November 2005 PFMC meeting. Sources of information for such an analysis may include the TIQ Analytical Team Report (October 2004 page H-100), a review of relevant state and international programs, and the Government Accounting Office report on Community Protections within rationalized fisheries (GAO-04-277, February 2004). Dr. Burke stated that she had spoken with NMFS staff and that this approach was one that they felt would be an appropriate approach and one that they could staff and accomplish by the November Council meeting. Mr. Anderson asked whether that would infer a higher priority for communities already receiving groundfish. Dr. Burke indicated that this was not a predetermined

aspect of her motion. The terminology was selected to provide broad latitude in pursuing its intent. Part of the task might be to develop criteria to identify the types of community to be benefited. While supporting the motion, Mr. Brown noted that one community's gain would be at the loss of some other community. Dr. Freese supported the motion because it would add balance to the analysis by having an alternative that emphasized communities. The issue of whether the IFQ species would be processed shoreside or at-sea should be covered under this issue. Amendment #2 to Motion 19 passed.

Mr. Ticehurst moved (Amendment 3 to Motion 19) to analyze the mechanisms and the impact of the IFQ alternatives on transferring quota to other fisheries not participating in the IQ program. Mr. Mallet seconded the motion. As we go forward, Mr. Ticehurst wanted to be sure that we don't preclude the idea that other fisheries would have access to this quota under some mechanism. Mr. Ticehurst acknowledged that there would not be a mechanism to transfer from the recreational fishery to the trawl fishery. Mr. Anderson said this initiative started as a trawl IQ program, and while he was not opposed to transferring IQ's to other sectors in the future, this proposal would weigh the current process down. We have a fishery that is in trouble and needs help. Once a good solid trawl IQ program is in place, consideration can be given to the additional features such as those proposed in this motion. Mr. Brown, Dr. Freese, Mr. Alverson and Mr. Warrens concurred, though Mr. Warrens agreed philosophically with Mr. Ticehurst. Dr. Freese suggested that the long-term view of the fishery be discussed in the Allocation Committee, including the trawl IFQ program and the expansion into other sectors. Mr. Ticehurst said he was not proposing inclusion of the mechanisms at this time but rather analysis of the proposed programs to ensure future intersector transfers are not being precluded. Amendment #3 to Motion 19 failed.

Mr. Anderson asked for a friendly amendment to Motion 19, that would modify the goals and objectives on page 2 of C.5.a, Attachment 1 as follows: change Goal 1 to read "and attainment of fishery management objectives" and remove the words "to the extent practicable" under Objective 7. The motion was accepted as a friendly amendment.

Mr. Anderson asked for another friendly amendment to include both Process Options 1 and 2 as reported in TIQC report, page 9 (Decision Table B). The motion was accepted as a friendly amendment. Mr. Seger received clarification that by adopting both process options the Council was differing action until a later time, such as when we come back with the draft EIS.

Mr. Anderson moved (Amendment #4 to Motion 19) to add to the package for analysis recommendation C from the GMT report (IFQs for overfished species only). Mr. Mallet seconded. Mr. Anderson said this is not his preferred alternative, but we don't know the expense involved in implementing an IFQ program for all species, don't know if it is doable yet and do not yet have the analysis. Therefore, he felt it prudent to include the alternative. Dr. Hanson disagreed because this adds to the analysis and complexity and cost of the program without achieving the benefits expected from a full IFQ program. Mr. Brown concurred with Dr. Hanson. Mr. Anderson indicated that his motion was consistent with implementing bycatch caps for overfished species as discussed in the strategic plan. The overfished species IFQ would provide more opportunity for fishers to access healthy stocks if they could avoid bycatch of overfished species. Dr. Freese stated that while the alternative may not seem realistic, the resulting analysis will inform us of ways to provide incentives and provide information on bycatch sector caps. Amendment #4 passed.

In response to a question from Dr. Freese, Mr. Seger indicated that for Section B.1.3, Program A (Option Table C-1), it was expected that catch-processors would provide an allocation schedule in advance of the DEIS and that this schedule would be part of the public review process. In response to another question, Mr. Seger indicated that options would be analyzed that would require a vessel to Minutes (June 2005 - 179th Council Meeting)

have some amount of quota pounds prior to leaving port.

Dr. Freese moved (amendment #5 to Motion 19) (1) allow NMFS to develop a proposal for an internal appeals process and bring it back to the Council for consideration and (2) to include an option that would prohibit the transfer of quota shares during the last two months of the year, for purposes of identifying the least cost way of implementing the program. Mr. Harp seconded the motion. Mr. Brown expressed concern that all costs associated with a quota share transfer prohibitions be considered, including private costs. In response to a question from Ms. Vojkovich, Dr. Freese indicated that appeals involving NMFS decisions on implementation of the regulations and that a change to the fish tickets would have to go to the states as the issuers of the tickets. Amendment #5 passed.

The main motion passed (Motion 19).

Mr. Alverson moved (Motion 20) that the Council draft a letter to the Secretary of Commerce explaining in detail what the Council and advisory entities have done and the supporting evidence they have brought to the Council at this time under Agenda Item C.5.a. The letter should indicate our intentions, the scope of the options, and that should Congress ask the Secretary of Commerce, the Council does not want to be usurped in any fashion in developing our IFQ options. Mr. Brown seconded the motion.

Motion 20 passed. Dr. Freese abstained.

Mr. Seger noted that the scope of actions had not included any additions to the list of impacts already identified and from that he inferred that the Council had no such additions (Task V of Attachment 1).

Dr. Hanson recommends the council send a letter to Ginny Goblirsch who was drafted for this process to fill a hole in the TIQC. She did a great job, she was not on anybody's payroll, she held meetings and traveled, all out of her own pocket and should be thanked for her efforts. His recommendation was agreed to by consensus of the Council.

C.6 Rebuilding Plan Revision Rules (06/17/05; 8:07 am)

C.6.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

C.6.b SSC Report

Dr. Steve Ralston provided Agenda Item C.6.b, Supplemental SSC Report.

Dr. McIsaac complimented the work done by Dr. Ralston and the SSC on rebuilding revision rules. He remarked that he had heard the proposed rule to modify National Standard 1 guidelines was published yesterday. He also understood the proposed rule does not mandate retroactive modifications of adopted rebuilding plans. Is this true? Dr. Freese said he had not read the proposed rule yet, but believes this is the case.

Mr. Anderson asked Dr. Ralston to explain the concept of P_{CRIT} . Dr. Ralston said P_{CRIT} is a rebuilding probability threshold for revising the harvest rate.

C.6.c Reports and Comments of Advisory Bodies

Ms. Ashcraft provided Agenda Item C.6.c, Supplemental GMT Report. Mr. Brown asked about GMT option 3. If P_{CRIT} is 0.6 and P_{CURRENT} is 0.59, would the rebuilding plan need to be revised? Ms. Ashcraft said no, just the harvest rate.

Mr. Moore provided Agenda Item C.6.c, Supplemental GAP Report. Mr. Anderson sought clarification of the GAP proposal. The 7.5% buffer is not 7.5% of the P_0 , but added to P_0 ? Mr. Moore said if P_0 is 70% and P_{CURRENT} is 79%, the harvest rate should be increased to attain a rebuilding probability of 77.5%. Mr. Brown asked what is done if the rebuilding probability drops within 7.5% of P_0 . Mr. Moore responded nothing is changed unless P_{CURRENT} drops below 50%. Mr. Brown asked what is the desired result of a buffer. Mr. Moore said the desire is not to revise rebuilding plans unless needed. A buffer is needed due to fluctuations in stock size, assessment uncertainty, etc.

C.6.d Public Comment

Mr. Chris Dorsett, The Ocean Conservancy, San Francisco, California
Ms. Karen Garrison, NRDC, San Francisco, California

C.6.e Council Action: Adopt Policy Alternatives for Public Review

Utilizing Agenda Item C.6.c, Supplemental GMT Report:

Mr. Anderson moved and Mr. Brown seconded a motion (Motion 21) to analyze the following alternative rebuilding revision rules: GMT option 1 (5% buffer for stocks with a $P_0 < 0.7$ and a 10% buffer for stocks with a $P_0 > 0.7$), GMT option 3 (same as GMT option 1 except with a P_{CRIT} of 0.6), GMT option 6 (attain P_0), GMT option 7 (10% buffer), GMT option 9 (in cases where rebuilding is progressing faster than expected, split the difference between P_{CURRENT} and P_0 , such that half of the increased probability of rebuilding would be applied to an accelerated rebuilding rate and half could be considered for harvest rate liberalization), the GAP option (7.5% buffer), The Ocean Conservancy option (10% buffer for stocks with a $P_0 \geq 0.9$, $P_{\text{CRIT}} = 0.6$), and the default option of amending the rebuilding plan if rebuilding cannot occur with at least a 50% rebuilding probability even when $F = 0$).

Mr. DeVore noted the SSC raised concerns with the work load associated with analyzing many alternatives. He recommended the Council discuss this with Dr. Ralston. Dr. Ralston said the person who is going to do these analyses is Dr. Andre Punt and he will be out of the country in August. Dr. Ralston said the fewer alternatives to be analyzed, the better. He recommended picking the most extreme alternatives of interest and two or three intermediate alternatives. After some discussion, Dr. Ralston thought the suite of alternatives to be analyzed seemed sufficiently pared down.

Mr. Brown said the Council should discuss revising harvest rates rather than revising rebuilding plans. Ms. Cooney agreed there are distinctions between changing a harvest rate and revising a rebuilding plan as these processes are laid out in the FMP and in regulations. She thought both situations are being addressed in Mr. Anderson's motion. Mr. Brown said this should be a discussion item in the document rather than a topic of lengthy discussion here and now.

Motion 21 passed.

C.7 Final Consideration of Inseason Adjustments, If Necessary (06/17/05; 9:42 am)

C.7.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

C.7.b Report of the GMT

Ms. Ashcraft provided Agenda Item C.7.b, Supplemental GMT Report. She noted there are 1.6 mt of unused canary rockfish in the scorecard. The GMT recommends this be used as a general buffer.

Mr. Brown asked about GMT recommendation #4. Is the black rockfish trip limit change for north of 40°10' N latitude or for the area between 40°10' and 42° N latitude? Ms. Ashcraft said the recommendation was for north of 40°10' N latitude.

Dr. Burke asked how the GMT concluded a higher catch of yellowtail rockfish in selective flatfish trawl gear means this gear is not as effective in excluding rockfish as shown in the EFP? Ms. Ashcraft said this was a concern expressed by the GMT. Dr. Burke said expressing a concern is reasonable, but expressing a conclusion without analysis is not reasonable. She added the trip limits for this gear are significantly constrained. Ms. Ashcraft explained the bycatch rate of yellowtail rockfish was higher than projected in the model. Nothing in the catch data suggests the bycatch of overfished species is higher than projected. Dr. Burke said observer data will ultimately judge the effectiveness of the selective flatfish trawl. Her concern was over the perception of a conclusion with the GMT statement.

C.7.c Reports and Comments of Advisory Bodies

Mr. Moore provided Agenda Item C.7.c, Supplemental GAP Report. He added the increase in limited entry trawl trip limits for slope rockfish and splitnose in the area between 38° and 40°10' N latitude should be extended beyond one period.

C.7.d Public Comment

None.

C.7.e Council Action: If Necessary, Adopt or Confirm Final Inseason Adjustments for the 2005 Groundfish Fishery

Dr. Burke asked Ms. Ashcraft to come to the podium for questions. She noted there is a management line specified at 42° N latitude. Can we make the black rockfish trip limit change for the area between 40°10' and 42° N latitude? Ms. Ashcraft said this was the GMT's original intent, but it was thought that line was not available. Now that it is available, the GMT can recommend this. Mr. Brown asked if the change were made for all the areas north of 40°10' N latitude, will a higher harvest rate risk the OY? Ms. Ashcraft said no, since Washington has its own black rockfish OY and ODFW specifies more restrictive trip limits in their nearshore fishery.

Mr. Brown moved and Mr. Warrens seconded a motion (Motion 22) to adjust trip limits inseason as recommended by the GMT in Agenda Item C.7.b, Supplemental GMT Report, with the following change: only increase the minor nearshore rockfish and black rockfish trip limits in the area between 40°10' and 42° N latitude.

Motion 22 passed.

Dr McIsaac said the motion that passed did not address the directed open access bycatch issue. Therefore, the Council reconsidered inseason adjustments.

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 25) to change the canary and yelloweye rockfish bycatch caps in the directed open access fishery from, 1.0 mt and 0.6 mt, Minutes (June 2005 - 179th Council Meeting)

respectively, to 3.0 mt for canary rockfish and 3.0 mt for yelloweye rockfish as shown in the updated scorecard on page 7 in Agenda Item C.7.b, Supplemental GMT Report.

Mr. Anderson asked if there was a connection in this motion with the longline dogfish factory ship catches anticipated earlier this year and was told no.

Motion 25 passed.

D. Salmon Management

D.1 Technical Basis for the Klamath River Fall Chinook Conservation Objective (06/14/05; 8:39 am)

D.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

D.1.b Report of the Salmon Technical Team

Mr. Allen Grover presented Agenda Item D.1.b, STT Report.

Dr. McIsaac asked what the maximum sustainable yield (MSY) stock size was based on the graph from Agenda Item D.1.a, Supplemental Attachment 1. Mr. Grover responded the MSY stock size could not be determined from that specific representation due to the complication of a multiple age class population structure. The graph displayed maximum expected recruits in age three adult equivalents at a spawning stock size of about 43,000.

Dr. McIsaac noted an objective of Salmon FMP Amendment 9 was to provide a wide range of spawning escapements to develop an estimate of MSY. He asked if there was an effort to identify an MSY point in the 1999 Klamath River Technical Advisory Team report. Mr. Grover responded yes, it identified an MSY proxy spawning escapement of between 30,000 and 35,000 producing the greatest long term average yield. It was not possible to directly generate an MSY estimate using the model simulation.

Mr. Ticehurst asked if there was a relationship between the spawning escapement and the water level in the river, and what water level supported optimum yield from a spawning escapement of 35,000. Mr. Grover responded that the spawner recruit data used in the report represents a range of water flows, but there was no direct answer.

Mr. Ticehurst asked if river flows would not support optimal production at a spawning escapement of 35,000, would greater production be obtained by reducing the number of spawners. Mr. Grover responded a different analysis would be required to answer that question, but it was unlikely production could be boosted if the productivity of a system had declined.

Mr. Melcher noted the Ricker alpha value estimated in the 1999 report was 8.4 and the estimate from the 1986 report was 7.0. He asked if a stock with a higher alpha value was more productive and could sustain higher harvest (or a lower escapement floor) than a stock with a lower alpha value. Mr. Grover responded yes.

Mr. Melcher noted the 1999 report indicated simulation modeling produced greater yields with a spawning escapement up to 30,000 to 35,000. Mr. Grover clarified there was no significant

difference in yield between an escapement floor of 30,000 and 35,000.

Mr. Cedergreen asked what percentage of the natural spawning escapement were of natural origin. Mr. Grover responded about 60%.

Mr. Ortmann asked if the range of years in the graph (Agenda Item D.1.a, Supplemental Attachment 1) would smooth the multiple age class problem for estimating MSY. Mr. Grover responded MSY could not be obtained from that graph.

Dr. Dygert asked what the recent spawning stock sizes were and if they would provide a greater range for determining MSY. Mr. Grover responded there would be information from about 7 additional broods since the 1999 report, and some of those were in the higher range, although the 2004 escapement was only about 25,000.

D.1.c Reports and Comments of Advisory Bodies

None.

D.1.d Public Comment

Mr. Russell Miller, Half Moon Bay Fishermen's Marketing Association, Bayside, California
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, California

Dr. McIsaac asked for clarification on Mr. MacLean's recommendation to review the spawning escapement floor. Mr. MacLean responded he recommended an analysis of the effects of river flow on the spawning escapement objective, but noted the STT may not be the appropriate body.

Mr. Dave Bitts, PCFFA, McKinleyville, California

Mr. Brown asked if Mr. Bitts' comment relating to Klamath chinook contributions was referring to the contribution of the Klamath stock relative to other stocks in the Klamath Ocean Harvest Model (KOHM). Mr. Bitts responded no, he was referring to a cost benefit analysis of Klamath stocks in providing access to more abundant stocks like Sacramento River stocks.

Dr. McIsaac noted Mr. Bitts recommendation for a Salmon FMP amendment to re-evaluate the Klamath conservation objective, and asked Mr. Tracy to clarify the Council's process for FMP amendments. Mr. Tracy responded the Council Operating Procedures (COPs) identify a three meeting process beginning with a scoping meeting to identify issues and a body to prepare the amendment, a second meeting to adopt a range of alternatives for public review via a draft NEPA document, and a third meeting to take final action. The final meeting should be no later than November in order to implement the amendment for the following season; however it may be possible to take final action in March as has been done with some salmon methodology issues that face the same COP requirement. Ms. Cooney clarified if final action were taken in March, there would be insufficient time to accommodate the 60 day comment period and some subsequent period to respond to comments and complete the final rule by May 1.

Mr. Melcher asked if Mr. Bitts was proposing to consider a matrix like approach to the Klamath conservation objective where the spawning escapement floor could vary according to the abundance of other stocks. Mr. Bitts replied he was suggesting variation according to river conditions, but noted variation in combination with both river conditions and other stock abundance would be an improvement if it were possible to do.

Mr. Zeke Grader, PCFFA, San Francisco, California
Mr. Aaron Newman, Humboldt Fishermen's Marketing Association, Eureka, California
Mr. David Yarger, Fishermen's Marketing Association Bodega Bay, Sebastopol, California
Mr. Daniel Platt, Salmon Troller's Marketing Association, Fort Bragg, California

D.1.e Council Guidance on Further Review and Consideration for the Klamath River Fall Chinook Conservation Objective

Mr. Melcher noted at its April meeting the Council chose to uphold the current Klamath spawning escapement floor for the 2005 season. He also noted the STT identified an additional seven complete broods that could be incorporated into an updated analysis, and recommended the STT conduct a simple Ricker stock recruitment analysis to compare with the earlier KRTAT analyses, including the estimate of 30,000 to 35,000 spawning escapement floor producing the greatest long term average yield. The STT would then report back to the Council at the September meeting and the Council could then decide if pursuing a Salmon FMP amendment was appropriate.

Mr. Harp supported Mr. Melcher's proposal.

Dr. Dygert supported Mr. Melcher's proposal. He felt the Council may want to ultimately look at management alternatives for Klamath River fall chinook other than those currently in use.

Mr. Ticehurst agreed with Mr. Melcher's proposal, but was concerned there was no information on the ability of the Klamath system to support a given spawning escapement in terms of optimal juvenile production. He recommended the STT also investigate other factors affecting recruitment such as river flow in their report to the Council in September.

Dr. Dygert noted spawner/recruit analyses generally assume productivity is constant, and that the 1999 report mentioned a flow variable had been dropped out of the earlier spawner/recruit analysis because it was no longer a significant variable. He recommended the STT investigate reintroducing the flow variable to see if it was significant again.

Mr. Melcher agreed with Mr. Ticehurst's comments, and supported investigating additional variables in the stock/recruitment analysis, but because of the time constraint between the June and September Council meetings, he recommended only doing the simple Ricker stock/recruitment analysis, which could lead to additional analysis if a Salmon FMP amendment process was pursued.

Mr. Tracy summarized the Council guidance for the stock/recruitment analysis and noted the STT concern for available personnel and time. Dr. McIsaac noted the flow data sets were available and suggested the STT conduct correlation analyses of spawning flows/recruitment and juvenile migration flows/recruitment to address Mr. Ticehurst's comments.

D.2 Status Report on Reinitiation of Consultation for California Coastal Chinook (06/14/05; 10:26 am)

D.2.a Agenda Item Overview

Mr. Tracy provided the agenda item overview.

D.2.b National Marine Fisheries Service (NMFS) Report

Dr. Dygert presented Agenda Item D.2.b, Supplemental NMFS Report

Ms. Vojkovich asked if NMFS planned to reevaluate an alternative to using Klamath fall chinook as a surrogate for California coastal chinook. Dr. Dygert replied the use of genetic information would be contingent on results of the feasibility study in 2006 and some additional years of data collection. NMFS hopes to develop a more direct method of determining stock composition in fisheries, but in the interim intends to use the Klamath stock as an indicator.

D.2.c Reports and Comments of Advisory Bodies

None.

D.2.d Public Comment

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, California
Mr. Dave Bitts, PCFFA, McKinleyville, California

D.2.e Council Discussion and Guidance

Mr. Melcher asked if the STT would be involved in developing the genetic identification study. Dr. Dygert replied he would discuss the issue with the Southwest Science Center and ask for a report to the Council at an appropriate time to engage the Council's advisory bodies.

E. Highly Migratory Species (HMS) Management

E.1 NMFS Report (06/14/05; 10:51 am)

E.1.a Regulatory Activities

Mr. Mark Helvey, NMFS SWR, provided a brief summary of recent activities.

E.1.b Science Center Activities

Mr. Gary Sakagawa provided a PowerPoint presentation.

E.1.c Reports and Comments of Advisory Bodies

Mr. Wayne Heikkila provided Agenda Item E.1.c, Supplemental HMSAS Report. Dr. Dale Squires and Mr. Steve Crooke provided Agenda Item E.1.c, HMSMT Report, and Agenda Item E.1.c, Supplemental HMSMT Report 2. Mr. Craig Heberer joined them at the podium to answer questions about implementation of the observer program.

E.1.d Public Comment

Ms. Kate Wing, NRDC, San Francisco, California

E.1.e Council Discussion

Mr. Anderson spoke to the Observer Plan (Exhibit E.1.a, Attachment 2), asking about coverage levels and what fishing vessels can expect in terms of carrying observers aboard. Mr. Heberer responded by acknowledging that because of funding limitations actual coverage levels are below the recommended levels in the Plan. He also said that NMFS is working with the states and industry to make sure observer placement goes smoothly. Mr. Anderson then asked about how state cooperation would work. Mr. Heberer said right now they are working with contractors to place observers and did not anticipate additional contracts being let in the near term in order to meet the coverage goals identified

in the Plan. Placement would be based on working with cooperative (voluntary) vessels for observer placement.

Dr. McIsaac asked Mr. Helvey about the many items covered under the NMFS report, some of which could warrant their own agenda item. Mr. Helvey responded by saying a lot of the items are presented mainly for informational purposes. For example, the Observer Plan was included to provide an update of current program status. Similarly, the IATTC resolution on VMS was included to let the Council know that NMFS is looking at how many vessels would meet the criterion for VMS coverage and the necessary technology to implement such a program. Dr. McIsaac then asked if NMFS was expecting a response from the Council on these items. Mr. Helvey said these items were presented to the HMSAS/HMSMT and NMFS wants to work with these committees to get some feedback.

Mr. Anderson expressed frustration about how the HMS FMP was being implemented. Unlike other Council FMPs, the Council has not been a real partner in implementing the HMS FMP. He acknowledged that funding shortfalls contributed to the problem and this prompted NMFS to take on some implementation activities without any comprehensive review by the Council. Nonetheless he was frustrated that this information was being presented to the Council about what NMFS is doing without the Council being provided the opportunity to give advice on these implementation issues. He said he hoped that continued HMS FMP implementation will occur with more Council involvement in decision-making. Mr. Helvey said Mr. Anderson's concerns were understandable. Part of the problem was the funding hiatus, during which the agency felt it needed to move ahead on some implementation issues. He thought perhaps it was time for NMFS slow down and allow the Council to catch up. Chairman Hansen concurred with Mr. Anderson's comments.

Ms. Vojkovich also said she supported Mr. Anderson's frustrations. Furthermore, the Council needs to provide advice on issues at the international level.

Mr. Alverson asked when the Council would comment on a statement in the Observer Plan relative to funding sources. Mr. Heberer replied that many observer programs were already in place under other authorities and there is likely few new funding sources. Mr. Alverson then followed up by noting that in the groundfish fishery, fishermen are notified in the fall before the year in question about whether to expect observer coverage and the HMS program might consider that approach.

E.2 Draft Inter-American Tropical Tuna Commission Resolution on Albacore Tuna (06/14/05; 1:18 pm)

E.2.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

E.2.b Reports and Comments of Advisory Bodies

Mr. Heikkila provided Agenda Item E.2.b, Supplemental HMSAS Report.

E.2.c Public Comment

Mr. Doug Fricke, Boat Seafoods, Hoquiam, Washington

Mr. Wayne Heikkila, Western Fishboat Owner's Association, Redding, California

Ms. Kate Wing, NRDC, San Francisco, California

E.2.d Council Discussion

Mr. Alverson asked if a limited entry program implemented in response to the IATTC resolution would only apply to vessels fishing inside the EEZ and how would vessels operating outside the EEZ be dealt with. Ms. Cooney responded that our FMP governs vessels that land fish on the West Coast. Both the Pacific and Western Pacific Councils would have to act to cover the vessels in their areas and both Council's FMPs would allow management of vessels beyond the EEZ.

Mr. Anderson asked when the IATTC would take action on this resolution and how their decision is made. Mr. Helvey said that all members of the IATTC would have to agree to and adopt the resolution. Once the IATTC adopts the resolution NMFS would then have to decide how they would implement U.S. obligations under the resolution.

Mr. Anderson asked if the WPFMC has taken a position on this resolution or plans to. Mr. Helvey said he didn't know, but noted they are not a member of the IATTC and are more involved with fisheries in the Western and Central Pacific region. Mr. Anderson followed up by asking when this issue would come back to the Council and whether there would be an opportunity for the Council to make recommendations. Mr. Helvey responded that it would depend on whether the IATTC adopts the resolution. If so, it would be decided whether future Council action would be necessary.

Ms. Vojkovich said it would be helpful to have a graphic to show the authorities in the Pacific for HMS. She is especially interested in the part of the Pacific where it appears there is no organization with responsibility. This would help the Council understand what agency or group they need to track and respond to. She also said she is unsure whether there is any control over Canadian effort by the IATTC and what kind of discussions have taken place relative to Canadian participation.

Mr. Helvey, in response to the request for a graphic, said NMFS might be able to present something like that at the September Council meeting. Regarding the Canadians, the State Department did provide it to them and there was a favorable reaction. There are also discussions with Canada on the albacore tuna treaty, which comes up for renewal next year.

Ms. Vojkovich, relative to the HMSAS meeting minutes (Agenda Item E.2.a, Attachment 2), asked when the Council would take up their recommendations laid out on pages 10 and 11 of the summary, especially the recommendation for a Council member to sit on the General Advisory Committee.

Dr. McIsaac said now is the time to consider the recommendations of the HMSAS. Council action might not be possible at this time, but discussion could focus on what the Council should do in the future. Ms. Vojkovich then asked if the Council could get some more information on the GAC at a future meeting.

Mr. Helvey requested Mr. Peter Flournoy, who is on the GAC, to speak to the membership of the GAC. Mr. Flournoy explained the role of the GAC; it is formed by statute to help the U.S. meet its obligations under the IATTC. The U.S. has a four-member section for the IATTC, or four commissioners. The purpose of the GAC is to advise the U.S. section. In that respect its role is similar to that of the HMSAS with respect to the Council. It was recently re-chartered and its members need to be reappointed every two years. DOS and NMFS determine who will be members of the GAC. As Chairman of the GAC, he was concerned that the GAC have Council representatives. He noted that the WPFMC sent two representatives to the last meeting and was surprised that the PFMC didn't send any representatives. Since the meetings are public, it's not so important for you to be a member because you can participate in the meetings.

Ms. Vojkovich asked whether Mr. Flournoy thought it was necessary for Council members to be on GAC or just attend the meetings. He said he thought someone from the Council should participate, Minutes (June 2005 - 179th Council Meeting)

but it doesn't have to be Council member. It could be the chairman of the HMSAS, for example. Ms. Vojkovich asked how large the GAC is and whether it has a statutorily-defined membership. Mr. Flournoy said the GAC has between five and 15 members and is created by statute. He also noted it has a scientific subcommittee and the Council might consider getting a member of its SSC on the subcommittee.

Dr. McIsaac suggested that the Council consider designating a specific person to interact with the GAC or IATTC. That way, it is clear that the person is representing the Council in any proceedings of these organizations.

E.3 Status of Fisheries and Preliminary Stock Assessment and Fishery Evaluation (SAFE) Report (06/14/05; 1:56 pm)

E.3.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

E.3.b Reports and Comments of Advisory Bodies

None.

E.3.c Public Comment

None.

E.3.d Council Discussion and Guidance

Ms. Vojkovich said she found Dr. Sakagawa's report on catches informative and liked that it showed where we fit in to Pacific-wide catches. In looking at the outline, it appears that the focus is Oregon, Washington, and California, and maybe we should go beyond that and report on how we relate to the international arena. In addition, issues in the international arena should be presented so that the Council can manage FMP fisheries in light of what is going on elsewhere.

E.4 Response to Overfishing of Bigeye Tuna (06/14/05; 2 pm)

E.4.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

E.4.b Reports and Comments of Advisory Bodies

Mr. Heikkila provided Agenda Item E.4.b, Supplemental HMSAS Report.

E.4.c Public Comment

Mr. Svein Fougner, Hawaii Longline Association, Long Beach, California
Mr. Pete Dupuy, Federation of Independent Seafood Harvesters, Tarzana, California
Mr. Doug Fricke, Boat Seafoods, Hoquiam, Washington
Mr. Peter Flournoy, International Law Offices, San Diego, California
Mr. August Felando, commercial purse seiner, San Diego, California

E.4.d Council Action: Determine Necessary Response, Including Consideration of a Fishery Management Plan (FMP) Amendment or Regulations

Mr. Helvey said NMFS believes a plan amendment is the most efficient way to proceed and urged the Council to get started on the amendment, taking into account the bigeye strategy (Agenda Item E.4.a, Attachment 1) and the information about what the WPFMC is proposing (Agenda Item E.4.a, Attachment 3). There is a need for collaboration during this development with the WPFMC. It also may be useful for the Council to identify specific goals. The amendment can be framed in terms of what this Council is recommending at the international level to reduce fishing mortality on bigeye stocks.

Mr. Helvey moved (Motion 3) to adopt efforts to begin an HMS FMP Amendment to address the bigeye tuna overfishing issue. Ms. Vojkovich seconded the motion for discussion purposes.

Ms. Vojkovich asked what would happen if the Council does not do anything today? Ms. Cooney said the MSA requires, if the Council does not take action, for NMFS to take action within eight months. If the Council started working on an amendment, and the process goes forward, that would satisfy the deadline requirement.

Mr. Alverson asked what the amendment would do. Ms. Cooney said the amendment would help the Council to push actions in the international forum because these overfishing problems need to be addressed at that level.

Ms. Vojkovich said there are two approaches shown in the attachments, one by NMFS and one by the WPFMC. She asked if NMFS recommends we move forward with their strategy and consider some of the ideas in the WPFMC package. Mr. Helvey said yes.

Mr. Anderson asked if the HMS FMP spells out how we do a plan amendment; for example, is it subject to NEPA? He further asked about the role of the HMSMT and whether we have funding to develop an amendment if we pass this motion. He wondered whether the HMSMT had reviewed the WPFMC proposal (Attachment 3). He thought there is also a fair amount of coordination needed between the PFMC and WPFMC. Given all these questions, he questioned whether this is a priority and asked for clarification of what would occur if the Council did not take action. Mr. Helvey reiterated Ms. Cooney's previous statement: if the Council does not take action, then the Secretary of Commerce does. In terms of the funding, NMFS is prepared to assist in preparing the plan amendment with the clear intention of working with the Council, HMSAS, and HMSMT. He said, even though the U.S. bigeye landings are small relative to the international total, the amendment is important in that it will serve as a template for how overfishing concerns will be addressed in the future (e.g., albacore).

Mr. Alverson asked whether the motion would address the IATCC bigeye quota issue and allocation between the WPFMC and the PFMC. Chairman Hansen said that should be discussed after the motion is voted on.

Dr. McIsaac re-read the motion at the Chairman's request.

Mr. Alverson asked whether Council or NMFS staff will initiate work on the amendment. Mr. Helvey said they would take the lead and work with Council staff and the advisory bodies and come back to the Council at the September meeting to give a status report.

Ms. Vojkovich said she understands the necessity for the Council to take action, but she is troubled by the growing list of priorities for the team and Council relative to HMS issues. She said all of these issues seem to be immediate, high-priority issues and asked if there is any real commitment on the part of NMFS to hire the staff needed to complete the necessary work.

Mr. Helvey said NMFS doesn't have the resources at this time to add extra people, but NMFS can at least address the bigeye issue, and NMFS will provide assistance where possible on other issues. Ms. Vojkovich said, if you are committed to the bigeye response and you have a limited staff, does that mean they will be committed to this bigeye task to the detriment of other priorities? Mr. Helvey said they are adding another staff person in another six weeks that will take this on.

Mr. Hansen asked Dr. McIsaac if the Council received the funding necessary to complete these tasks. Dr. McIsaac reviewed the HMS funding received by the Council and what it can be used for. He noted there is always a balance between the Council and NMFS in terms of work load and NMFS will likely carry more of the burden for this FMP amendment.

Dr. Burke asked, in reference to the FMP amendment being a template for other fisheries, if NMFS developed the amendment without Council involvement (because the motion failed) would that preclude Council options for the same type of situation for other species in the future? Mr. Helvey stressed the importance of Council involvement and said in developing this amendment, these other fisheries need to be taken into account.

Ms. Vojkovich asked Mr. Helvey if NMFS has determined whether the work the WPFMC has already done on developing an amendment could be applied to this task in order to lessen the workload. Mr. Helvey replied that he had only just seen the WPFMC document in the briefing book.

Mr. Anderson asked if Mr. Helvey viewed the HMSMT as more of an oversight committee for this effort rather than actually drafting the amendment. Mr. Helvey said he thought so.

Dr. Burke returned to the point she had raised earlier, asking specifically if Mr. Helvey could provide an example of how this amendment for bigeye could affect a future action for albacore. Mr. Helvey said he didn't have a specific answer, but many people would be viewing the development of this amendment. Also, it is important to consider all of the species in the FMP in this context. Dr. Burke followed up by noting she found this is hard to understand. For example, would some international agreement made with respect to bigeye affect the management of albacore? Mr. Helvey responded by saying he saw the elements of this FMP as more of a process rather than a specific set of actions.

Dr. Dahl, responding to Dr. Burke's question, emphasized how the NMFS and WPFMC proposals deal with process issues, which could be applicable to similar situations in the future.

Mr. Anderson said the Council made a decision to develop the HMS FMP covering identified species. Almost all of those species have issues associated with other jurisdictions, and the impacts on those species occurring in the EEZ varies. Given these circumstances, he said the Council made the first choice of implementing the HMS FMP and we now have to decide how involved the Council will become in management issues for each of the FMP species. Therefore, the Council would devote more resources and broadened scope of management to those species that have the highest priority. That doesn't mean that the Council wouldn't become more involved in regional issues by interacting with the WPFMC and the IATTC. The level of involvement will vary by species. Nonetheless, the Council is obligated to react to the base requirements for an FMP species, which he believes is the situation with bigeye. This is his rationale for supporting the motion.

Chairman Hansen noted how it's clear the Council needs to stay involved in these issues, as reflected by the earlier discussion of NMFS activities.

Dr. McIsaac said that if there are Council members who are concerned about the workload burden

falling on the HMSMT he would provide some examples from the groundfish arena to demonstrate how the workload is shared between Council and NMFS staff, depending on the specific task. He understood Mr. Helvey had said that NMFS would prepare the draft documents and make the presentations to the Council, reflecting one end of the spectrum of Council versus NMFS workload.

Motion 3 passed.

Mr. Alverson asked who should be informed of the Council's interest in having an allocation of the IATTC bigeye quota. Mr. Helvey said that element could go into the plan amendment in terms of increased collaboration with the WPFMC.

E.5 Exempted Fishing Permits (EFP) (06/14/05; 3:28 pm)

E.5.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

E.5.b Reports and Comments of Advisory Bodies

Dr. Squires and Mr. Crooke provided Agenda Item E.5.b, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item E.5.b, Supplemental HMSAS Report.

E.5.c Public Comment

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California
Mr. August Felando, commercial purse seiner, San Diego, California
Mr. Pete Dupuy, Federation of Independent Seafood Harvesters, Tarzana, California
Mr. Russ Nelson, The Billfish Foundation, Oakland Park, Florida
Ms. April Wakeman, United Anglers of Southern California, Huntington Beach, California
Mr. Tom Raftican, United Anglers of Southern California, Huntington Beach, California

E.5.d Council Action: Review and Make Recommendations on EFPs

Mr. Helvey recommended the Council adopt an interim protocol with a modified timeline for use when considering this EFP since the FMP requires a protocol but one has not yet been adopted by the Council. He pointed to the draft protocol provided as an attachment to the HMSMT Report.

Mr. Brown moved and Mr. Warrens seconded a motion (Motion 4) to adopt the EFP protocol as stated in Agenda Item E.5.b, Supplemental HMSMT Report, and recommend approval to NMFS of the EFP with the conditions also outlined in the HMSMT report.

Mr. Brown reviewed the relevant history of FMP development with respect to this issue, noting the FMP anticipated this would be the process for trying to improve the longline fishery. The EFP proposed by Mr. Dupuy would test various techniques, which would be monitored by the observers he is requesting. If the Council doesn't grant an EFP, it is essentially telling this fishery it has to die.

Ms. Cooney asked for clarification as to whether Mr. Brown's motion also included the use of the draft protocol as an interim protocol (as discussed by Mr. Helvey). Mr. Brown responded it was his intention to include that in the motion.

Ms. Vojkovich stated, personally, she respects fishermen who try to put food on our tables, especially those fishermen who try to find ways to deal with problems raised by fisheries management and in

their operations. However, as a state representative, she has to respect the broader interests represented by the citizens of the state of California. She noted the state did not allow the use of longline gear in the EEZ when they managed the fishery, even though the issue was raised several times. That continues to be the State's position. Concerns are raised by the public and recreational fishermen, particularly with respect to bycatch of striped marlin and shark species. Because of that she cannot support the EFP.

Dr. Burke, confirming that there is a gillnet fishery in the EEZ off of California, asked if the intention of this EFP was as a way to develop a fishery that people in that fishery could begin shifting into. Ms. Vojkovich did not know if there was a clear idea of who would fish in this fishery if the EFP eventually led to a fishery allowed by regulations.

Dr. Burke said in the past she has been unsupportive of a fishery that only benefits one or two people, especially if there are bycatch issues. In some ways this EFP looks like that situation, but in some ways it looks like a way to facilitate effort shift to reduce bycatch. She asked for more clarification of this issue.

Mr. Ticehurst spoke against the EFP because the Council examined this issue some time ago and recognized there were bycatch problems. Problems related with it have only gotten worse, for example with the declaration of bigeye overfishing. Furthermore, from the standpoint of getting scientific information, longline vessels can fish outside of the EEZ right now. Finally, he thought this type of proposal should be subject to a more extensive review, done in a more orderly fashion.

Mr. Anderson said he respected Mr. Dupuy's efforts. But he was concerned that if the experiment were successful it could lead to an expansion of this fishery. However, there are bycatch concerns that this EFP doesn't address. The information gathered would not be sufficient to determine whether this fishery could offer an alternative to the drift gillnet fishery with lower bycatch rates. Second, he raised the concern of work priorities and whether the workload associated with this EFP could be justified.

Mr. Brown responded to Mr. Anderson's comments about the value of the information that would be gained by this EFP by noting that it would certainly be more information than what we have now. Without gathering any information it's not possible to move forward at all.

Mr. Alverson asked Mr. Helvey, if Mr. Dupuy's operation operates outside 200 miles, would the SWR provide an observer in that situation? Mr. Helvey said yes, observers would be placed onboard. However, Mr. Helvey noted the EFP is focused on fishing inside the EEZ.

Motion 4: roll call vote, 4 yes and 8 no. Mr. Helvey abstained. Motion 4 failed.

Mr. Anderson asked about the adoption of the EFP protocol and when it would come before the Council again. Mr. Helvey said it hasn't been adopted yet and would come up at a future meeting. That would be a consideration on Friday under the Administrative Matters agenda item having to do with the September Council meeting agenda.

Dr. Dahl clarified that the protocol is to be adopted as a COP, and asked whether it should come up under an administrative item or under HMS. Dr. McIsaac said it could come up either under administrative matters or under an HMS agenda item, but putting it under HMS would be preferable to get public comment.

E.6 Management Regime for High Seas Longline Fishery (06/14/05; 5:40 pm)

E.6.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

E.6.b Reports and Comments of Advisory Bodies

Mr. Fricke provided Agenda Item E.6.b, Supplemental HMSAS Report.
Mr. Crooke and Dr. Squires summarized Agenda Item E.6.b, HMSMT Report.

Mr. Anderson asked Mr. Crooke if the HMSMT would favor an approach under which the WPFMC would retain most responsibility for managing the pelagic longline fishery with some sort of mechanism to allow PFMC consultation and coordination on their management decisions. Mr. Crooke replied by saying the team discussed the possibility of working with the WPFMC but didn't come to any formal conclusions. Dr. Squires provided some ideas, such as appointing a Council liaison officer and including information in the SAFE report along with a formal review process. Mr. Anderson followed up by asking whether a separate biological opinion would be necessary. Dr. Squires said this process would facilitate any new biological opinion.

Mr. Brown asked if there had been any discussion about the WPFMC's interest in working with the PFMC on this issue. Dr. Squires replied that he was not aware of any beyond discussions at the team level. He did suggest there could be some advantages to the Hawaii fishery of cooperating on these issues.

E.6.c Public Comment

Mr. Lillo Augello, Western Fish Company, Terminal Island, California
Mr. Russ Nelson, The Billfish Foundation, Oakland Park, Florida
Ms. Kathy Fosmark, Alliance for Communities for Sustainable Fisheries, Pebble Beach, California
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California
Mr. John LaGrange, longliner, Solana Beach, California
Father Michael Adams, Mary Star of the Sea Parish, San Pedro, California

E.6.d Council Action: Identify and Plan Appropriate FMP Amendment or Regulatory Actions to Resolve Management Issues

Chairman Hansen asked Dr. Dahl to clarify the Council decision. Dr. Dahl said there are two options on how to proceed with some sort of regulatory action to facilitate a high seas longline fishery on the West Coast. First, this could be done by asking Hawaii to reinitiate section 7 consultations considering the area east of 140° west longitude and see how that would affect the limits imposed on the fishery. Second, an opportunity could be created east of 140° west longitude under the HMS FMP. The Council would also need to consider the timing of their decision-making.

Ms. Vojkovich asked for further clarification. First, she asked how the drift gillnet fishery would fit into any consideration of sea turtle take and how it affects the management of these different fisheries. Dr. Dahl said the Council could engage in a separate process to examine the drift gillnet fishery as far as the current closed area without considering any action to create a longline fishery opportunity. That course of action would not really allow considering the two fisheries together, for example shifting between gear types.

Ms. Vojkovich asked if there was the opportunity of drift gillnet fishermen changing gears, and

allowing targeting swordfish with longline gear, then the recommendation is to keep it within our FMP and deal with both fisheries together? Dr. Dahl said that would be the sensible approach. Alternatively, a drift gillnet fisherman could purchase a Hawaii pelagics limited entry permit, which allows fishing from the West Coast. This might not be very feasible considering the cost of the permit and the current effort restrictions in that fishery.

Ms. Vojkovich asked about what types of procedural issues are relevant to the swordfish fishery and the drift gillnet fishery: regulatory action, re-examination of turtle take, or FMP action? Dr. Dahl said neither of these actions would require an amendment to the FMP, but both would require a regulatory amendment subject to a section 7 consultation. There could be a joint consultation on those actions depending on the schedule.

Ms. Vojkovich asked if regulatory actions relative to the swordfish longline issue would just be a matter of adopting regulations based on work that has already been completed. Dr. Dahl said yes, presumably we could follow the model the WPFMC used and set up a parallel regulatory structure involving the concepts of having a hard limit on turtle takes and, if necessary, a restriction on effort. He also said the gear modifications are key elements of the Hawaii fishery, which have reduced the incidental take and mortality of sea turtles.

Ms. Vojkovich then asked Mr. Helvey about the issues surrounding possibly having dual permits. She asked if that can be dealt with through a regulatory process. Mr. Helvey deferred to Ms. Cooney. Ms. Cooney said she was not familiar with a lot of the details but thought a regulatory process could deal with all these issues.

Mr. Alverson asked Mr. Helvey, if we approve the HMSMT recommendations in their report (Agenda Item E.6.b, HMSMT Report), does that trigger a section 7 consultation? If so, would that take place before November 2005? Mr. Helvey asked Ms. Petras to answer.

Ms. Elizabeth Petras, NMFS SWR, said the Hawaii pelagic FMP covers the area from 180° to 140° West longitude and the equator to 40° N latitude. That is what is analyzed in the biological opinion and that is the management area defined in their FMP. Therefore considering the area east of that area would not be appropriate. Considering an action under the HMS FMP, once a preferred alternative is chosen, would initiate formal consultation with the NMFS Protected Resources Division.

Mr. Anderson raised the possibility of some kind of joint consultation of actions under both the WPFMC and the PFMC. He thought it might be worthwhile to have a subgroup meet during the August HMSMT meeting to scope out a strawman proposal that could be taken to WPFMC for discussion purposes. There was some discussion of a meeting between the two Council's during the August PSMFC meeting. He is not certain as to whether or not that would be a worthwhile endeavor but that could be an opportunity to flesh out those ideas. Whether or not that is a worthwhile endeavor, he thought the Council needs to develop a working relationship with the WPFMC.

Ms. Vojkovich said Mr. Anderson's approach is a great idea. But she also wanted to know what would happen to the drift gillnet fishery operating in California, which has turtle interactions, if the Council takes that approach. She does not want that piece to get lost in the discussion.

Mr. Anderson said he did not want to get that piece lost either and that is why he suggested some sort of scoping opportunity at the HMSMT meeting.

Mr. Helvey understands the gillnet boats are too small to be on the high seas and are staying closer to Minutes (June 2005 - 179th Council Meeting)

the shore. In reference to any joint discussion, what is the common denominator for the two fisheries? He thought the turtle take was a common denominator but the fisheries don't all overlap. We need some experts to sort that out.

Ms. Petras answered questions about the section 7 consultation and turtle take issues. She also spoke about turtle take limits currently part of the regulations for the WPFMC pelagic longline fishery. Any consultation would look at the different turtle populations affected by the action.

Mr. Alverson asked Ms. Petras if the section 7 consultation also takes into consideration the foreign vessels operating in this area. She said yes, it is considered a part of the environmental baseline.

Ms. Vojkovich asked if the request for emergency action could be addressed. Ms. Cooney said the most constraining issue is the ESA. You would have to figure out what your action is relative to emergency under the MSA, and then what sort of ESA consultation would be necessary. Ms. Petras said the HMSMT and PRD have been looking at how to use the analyses in the NEPA process to facilitate the ESA consultation.

Ms. Vojkovich asked for clarification by asking if the answer is that nothing can happen at the very least before 130 days after the Council makes a decision and gets it to NOAA. Ms. Petrus said that is the amount of time allowed for a consultation under the regulations.

The Council adjourned for the day. The next morning under Agenda Item A.6 Dr. McIsaac recognized the longline and drift gillnet issues are interlinked but suggested it is easier to consider them separately as Council decisions. He also mentioned Mr. Anderson's idea of forming a subcommittee to pursue the longline issue. He proposed discussing these issues on Friday, under B.4, work load and September agenda planning. HMSMT and HMSAS assignments would then flow from that discussion. The Council agreed by consensus.

F. Coastal Pelagic Species Management

F.1 Pacific Mackerel Harvest Guideline for 2005/2006 Fishery (06/16/05; 9:32 am)

F.1.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

F.1.b NMFS Report

Dr. Kevin Hill provided a powerpoint presentation.

F.1.c Reports and Comments of Advisory Bodies

Dr. Kevin Hill provided Agenda Item F.1.c, Supplemental SSC Report. Dr. Sam Herrick provided Agenda Item F.1.c, Supplemental CPSMT Report. Mr. John Royal and Ms. Heather Munro Mann provided Agenda Item F.1.c, Supplemental CPSAS Report. Ms. Vojkovich asked about the set-aside provision in the CPSAS statement. Ms. Munro Mann clarified that the set-aside would be considered for release to the directed fishery in March of 2006 if the directed fishery harvest guideline is unlikely to be attained.

F.1.d Public Comment

None.

F.1.e Council Action: Adopt Pacific Mackerel Harvest Guideline for 2005/2006 Fishery

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 14) to adopt a Pacific mackerel harvest guideline for the 2005/2006 fishery of 17,419 mt with a directed fishery for 13,419 mt to begin on July 1, 2005. If the directed fishery quota is reached, the fishery would revert to an incidental-catch-only fishery with the remaining 4,000 mt as a set aside. Establish a 40% incidental catch rate when Pacific mackerel are landed with other coastal pelagic species (CPS), except that up to 1 mt of Pacific mackerel could be landed without landing any other CPS. The Council will review the mackerel season at the March 2006 Council meeting to consider releasing the set-aside to the directed fishery if sufficient amount of the harvest guideline remains.

Motion 14 passed.

F.2 FMP Amendment 11--Sardine Allocation (06/16/05; 9:57 am)

F.2.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

F.2.b CPSMT Report

Dr. Herrick provided the CPSMT Report.

Mr. Ticehurst asked if the analysis calculated the value of sardine as a forage species if left unharvested. Dr. Herrick explained the analysis does not address those types of calculations as the role of sardine as a forage species is recognized in the calculation of the harvest guideline in the form of a set-aside. This analysis only considers the portion of the harvest guideline that was recommended for direct harvest after allowances for forage were made. Dr. Herrick added the ecological role of sardine and other forage fish is the subject of current debate and research.

F.2.c Reports and Comments of Advisory Bodies

Dr. Kevin Hill provided Agenda Item F.2.c, Supplemental SSC Report. Dr. McIsaac asked if the SSC felt that the analysis of salmon bycatch represented the best available science. Dr. Hill responded that the SSC had some concerns about parts of the methodology such as the use of Washington observer data to predict salmon interaction in the Oregon fishery. The SSC felt the application of the data for this exercise was adequate and SSC comments are intended to provide ways to improve analysis and the available data in the future.

Dr. Burke asked if the analysis of salmon bycatch that was reviewed by the SSC took into account the fact that the Oregon fishery requires the use of grates. Ms. Elizabeth Petras clarified that the Biological Opinion for the 2005 fishery and the draft Environmental Assessment took this into consideration as a potential mortality reduction mechanism.

Mr. Anderson briefly walked the Council through graphics provided under Agenda Item F.2.c, Supplemental WDFW Report.

Mr. Harp provided a review of the adoption of a placeholder in the CPS FMP to recognize treaty rights for tribes to participate in that fishery. Since then, the tribes have not participated. Mr. Harp

introduced Mr. Steve Joner who explained the intent of the Makah Tribe to enter the Pacific Sardine fishery in the established usual and accustomed tribal areas as described in Agenda Item F.2.c, Supplemental Tribal Comment. A processor has been identified and the tribe hopes to operate vessels in the 2006 fishery. Dr. McIsaac asked Mr. Joner to describe the usual and accustomed areas and if this proposal includes tribes other than Makah. Mr. Joner explained that the usual and accustomed area is consistent for all of the tribes across all species and includes the area from the U.S./Canada border to Point Chehalis, Washington and out approximately 40 miles to 125° 44' W. longitude. The Quinault tribe has expressed an interest in the fishery but have not acted formally at this time. Ms. Cooney explained the tribal request process for treaty harvest of sardines in 2006 is detailed in a framework in the CPS FMP that was modeled after the groundfish FMP. The Secretary of Commerce will implement treaty rights after considering comments from the tribes, the Council, and the public. Treaty rights will be established either by an allocation to the tribe alone, or with specific fishery regulations. The public comment will occur through the annual specifications and regulations process. The framework also specifies that the treaty fishery would not be subject to other provisions in the CPS FMP that pertain to non-tribal fisheries. In the past the Council has established a committee of state and federal representatives to work with NMFS and the tribes on allocation matters. Dr. McIsaac asked about the timing of the establishment of this committee. Ms. Cooney recommended the committee be established at this meeting under Agenda Item B.3. Dr. McIsaac clarified that the action before the Council under this agenda item would only cover the non-tribal portion of the fishery.

Mr. Royal and Ms. Munro Mann provided Agenda Item F.2.c, Supplemental CPSAS Report.

Dr. McIsaac asked if the CPSAS considered the letter in Agenda Item F.2.c, Supplemental Tribal Comment when deliberating long-term sardine allocation. Mr. Royal responded they had not.

Dr. Burke pointed out the annual review of the allocation formula under the annual specification process and asked what the requested review would entail. Ms. Munro Mann explained the review mechanism was agreed to as means of reaching consensus and was intended as a thorough review of the allocation formula with the potential of starting a process of considering revision.

Mr. Royal applauded the efforts of the CPSAS to reach this consensus opinion. Chairmen Hansen thanked the team as well.

Dr. Herrick provided Agenda Item F.2.c, Supplemental CPSMT Report.

Ms. Vojkovich asked about the CPSMT recommendation on review of the allocation formula. Dr. Herrick said the CPSMT did not recommend specific criteria of the review and comments were intended to recognize the uncertainties in the Pacific sardine resource. Chairmen Hansen asked if the acoustical survey would factor into the review. Dr. Herrick responded that any new information would likely be part of the review. Mr. Helvey asked if the CPSMT would be the group conducting the review and would the review become part of the SAFE document. Dr. Herrick stated that the CPSMT would likely take a lead role and the annual SAFE process could serve as documentation.

F.2.d Public Comment

Mr. Heather Mann, West Coast Seafood Processors Association, Siletz, Oregon

Mr. Mike Okoniewski, Pacific Seafood, Woodland, Washington

Mr. John DeLuca, State Fish Company, San Pedro, California

Mr. Vince Torre, Tri-Marine Fish Company, San Pedro, California

Ms. Kristina Bui, State Fish Company, San Pedro, California

Ms. Dianne Pleschner Steele, California Wetfish Producers Association, Buellton, California

F.2.e Council Action: Adopt a Final Preferred Alternative for Sardine Allocation

Mr. Anderson expressed appreciation on behalf of the Council for the hard work of the CPSAS and industry representatives on this matter. Mr. Anderson also recognized the overnight work of the CPSMT to provide additional analyses which brackets the proposal brought forward by the CPSAS relative to the range of analyzed impacts. Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 15) to adopt the sardine allocation regime as described in Agenda Item F.2.c, Supplemental CPSAS Report, June 2005 for the West Coast sardine fishery excluding any Treaty Indian fishery promulgated and pursuant to *US v. Washington*,: January 1: 35% of harvest guideline to be allocated on a coastwide basis, July 1: 40% of the HG plus any rollover (unharvested quota) from the first period is made available on a coastwide basis, and on September 15: 25% of the harvest guideline plus any rollover (unharvested quota) from the second period is made available on a coastwide basis.

This sardine allocation regime will be subject to a formal performance review by the Council in June of 2008. This review will compare the performance of the fishery to the projections used to evaluate the adopted regime including but not limited to: catch projections, catch shortages by sector, economic benefit analysis, and the utilization of the harvest guideline.

Ms. Vojkovich asked for the review to consider all scientific and biological information collected between now and the review to assess any changes to the resource. Mr. Anderson accepted the friendly amendment.

Mr. Anderson considered the amount of time that went into the current analysis, the benefit of having two years under the new regime, and the fact that the Council will be reviewing the allocation formula in some capacity annually when recommending 2008 rather than 2007 as the review year. He added that in reviewing the analyses, particularly those under a low harvest guideline, this alternative appears to share both the available harvest and the burden of conservation between fisheries in the north and south.

Motion 15 Passed.

Dr. Burke asked for an update on the current sardine research planning at the September Council meeting from NMFS-SWFSC. Mr. Helvey said there are surveys proposed for next month in the Northwest and there are coastwide surveys planned for next year. Dr. Bill Fox and the SWFSC have requested Council input on the importance of the synoptic survey and the use of the Miller-Freeman research vessel in this endeavor. There are uncertainties around the use of this vessel at this time. Mr. Helvey also noted the need to improve coordination and dialogue on how to get information on fisheries in Mexico.

Dr. Hill reported there are genetic and otolith microchemistry studies ongoing to get a better understanding of sardine stock structure. Additionally, as mentioned, there is a synoptic survey planned for 2006. NMFS is working with Mexico and Canada to improve coordination.

Dr. Burke moved and Ms. Vojkovich seconded a motion (Motion 16) for the Council to urge and support the synoptic survey including the use of the Miller-Freeman research vessel and requested the SWFSC come back in September for either a written or verbal update on sardine research. Ms. Vojkovich asked if the motion includes a request to the SWFSC on what research is planned, the objective of the research, and when and how that information will be available for management.

Dr. Burke accepted the suggestions as a friendly clarification. Motion 16 passed.

Ms. Vojkovich moved (Motion 17) and Mr. Thomas seconded a motion to craft a letter to NMFS to request the need to work with Mexico on the sharing data on both Pacific mackerel and Pacific sardines. This issue was brought up by the CPSMT. There is growing concern over aquaculture practices in Northern Baja California. The letter should recommend these issues be brought up in bilateral discussion including the Nexus Pacifico discussions. Mr. Brown said it would be more appropriate to ask for all fishery data, not just CPS. Ms. Vojkovich agreed to expand the letter to include transboundary fish species. Mr. Warrens said the letter of concern should also go to the State Department. The maker and second agreed. Motion 17 passed.

F.3 SAFE Document and Five-Year EFH Review (06/16/05: 1:17 pm)

F.3.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

F.3.b Reports and Comments of Advisory Bodies

Dr. Sam Herrick provided Agenda Item F.3.b, Supplemental CPSMT Report.

F.3.c Public Comment

None.

F.3.d Council Action: Approve the SAFE Document, Including the EFH Review

Mr. Alverson moved and Mr. Brown seconded a motion (Motion 18) to approve the CPS SAFE document including the five-year review of CPS EFH. Motion 18 passed.

Mr. Brown clarified and Mr. Alverson confirmed that the CPSMT recommendation that the definition of EFH remain unchanged is part of the motion.

Mr. Burner clarified that Council staff will follow Council action with a final published version of the SAFE and requested the latitude to correct any errors as the document goes through the proof and editing process.

Dr. McIsaac recounted Council action on groundfish EFH and the concept of no take areas and asked, relative to EFH for CPS, if the Council should consider future action under CPS EFH towards this goal of a no take marine reserve. Ms. Cooney said she did not have a full answer at this time. NMFS needs to pull together all of the information from yesterday's groundfish EFH motion and develop a plan. Dr. McIsaac stated there have been discussions about whether EFH definitions under other, non-groundfish FMPs would need to be modified, or if adequate protections can be achieved under the groundfish process alone.

4 PM Public Comment for items NOT on the agenda

Ms. Kate Wing, NRDC, San Francisco, California. Spoke about their letter in the briefing book. Both NRDC and the Ocean Conservancy requested that the Council take timely action to draft the fishing regulations necessary to complete the designation of marine protected areas at the Channel Islands National Marine Sanctuary.

Mr. August Felando, commercial purse seiner, San Diego, California. Talked about the sea lion and seal problems. He suggested that the Council ask NOAA to report to the Council what the impacts are of sea lions and seals. We need to get that answer of what the impacts are to fisheries regulated by this Council.

Ms. Jennifer Bloeser, PMCC, California. Spoke about the SCOOP project (described in Supplemental 4 PM Public Comment 3).

Messrs. Chris Dorsett, Ocean Conservancy, San Francisco, and Peter Huhtala, PMCC, Astoria, Oregon. Voiced their concerns of not having Amendment 18 on the agenda. They asked that this issue stay high on the Council's agenda. It was noted by Vice Chairman Ortmann this item would be scheduled for September.

Ms. Kathy Fosmark, Alliance of Communities for Sustainable Fisheries, Pebble Beach, California. Spoke about the drift gillnet issue work and that it get started in time for use in next seasons fishery. She also commented that her group has worked with the sanctuary staff and urged the management of fisheries stay under NOAA and not under NMS.

Mr. Kenyon Hensel, Hensels, Crescent City, California. Raised the issue of permitting in the open access fishery. He felt the time is right to take action. New management trends call for a revision in the open access system.

Mr. Stephen Taufman, Groundswell Fisheries Movement, Seattle, Washington. Testified on fisheries sustainability and economic issues.

Mr. Daniel Platt and Ms. Heather Serles, Salmon Trollers Marketing Association, Fort Bragg, California. Voiced opinion on the salmon fisheries this year. They could have been fishing this year if we would have taken into account the differences between 30,000 and 35,000 fish returning to the Klamath River; felt 5,000 fish could have made a huge difference this year.

Ms. Heather Munro Mann, Munro Consulting, Newport, Oregon. Provided a preliminary report on the Canary Rockfish Project that began last July. Two public workshops with fishers were held (in Newport, OR and Westport, OR) to discuss how we might develop a survey method for canary rockfish that would supplement the information provided by the NMFS triennial bottom trawl survey of the shelf.

ADJOURN

The Council meeting was adjourned on Friday, June 17, 2005 at 2:30 pm.



September 23, 2005

Council Chairman

Date