

**MINUTES**

Pacific Fishery Management Council  
September 18-23, 2005  
Embassy Suites Portland Airport  
7900 NE 82<sup>nd</sup> Avenue  
Portland, OR 97220

- A. Call to Order..... 5
  - A.1 Opening Remarks, Introductions..... 5
  - A.2 Roll Call..... 5
  - A.3 Executive Director's Report..... 5
  - A.4 Council Action: Approve Agenda ..... 5
- B. Administrative Matters ..... 6
  - B.1 Approval of Council Meeting Minutes..... 6
    - B.1.a Council Member Review and Comments ..... 6
    - B.1.b Council Action: Approve April and June Minutes..... 6
  - B.2 Council Meeting Agenda Planning..... 6
    - B.2.a Agenda Item Overview ..... 6
    - B.2.b Reports and Comments of Advisory Bodies ..... 6
    - B.2.c Public Comment..... 6
    - B.2.d Council Discussion..... 6
  - B.3 Legislative Matters ..... 6
    - B.3.a Agenda Item Overview ..... 6
    - B.3.b Legislative Committee Report ..... 6
    - B.3.c Reports and Comments of Advisory Bodies ..... 6
    - B.3.d Public Comment..... 7
    - B.3.e Council Action: Consider Recommendations of the Legislative Committee ..... 7
  - B.4 Fiscal Matters ..... 11
    - B.4.a Agenda Item Overview ..... 11
    - B.4.b Budget Committee Report..... 11
    - B.4.c Reports and Comments of Advisory Bodies ..... 11
    - B.4.d Public Comment..... 11
    - B.4.e Council Action: Consider Recommendations of the Budget Committee..... 11
  - B.5 Appointments to Advisory Bodies, Standing Committees, and Other Forums ..... 11
    - B.5.a Agenda Item Overview ..... 11
    - B.5.b Agency and Tribal Comments..... 11
    - B.5.c Report and Comments of Advisory Bodies..... 11
    - B.5.d Public Comment..... 11
    - B.5.e Council Action: Consider Changes to COPs, Appoint New Members,  
and Solicit Nominations as Necessary ..... 11
  - B.6 Council Three Meeting Outlook, Draft November 2005 Council Meeting Agenda,  
and Work Load Priorities ..... 12
    - B.6.a Agenda Item Overview ..... 12
    - B.6.b Reports and Comments of Advisory Bodies ..... 13
    - B.6.c Public Comment..... 13
    - B.6.d Council Guidance on Council Three Meeting Outlook, November Council Agenda,  
Council Staff Work Load, and Priorities for Advisory Body Consideration ..... 13
- C. Highly Migratory Species (HMS) Management ..... 13
  - C.1.NMFS Report ..... 13
    - C.1.a Regulatory Activities ..... 13

C.1.b	Science Center Activities .....	14
C.1.c	Reports and Comments of Advisory Bodies .....	14
C.1.d	Public Comment.....	14
C.1.e	Council Discussion.....	14
C.2	Bigeye Tuna Overfishing Response Update.....	16
C.2.a	Agenda Item Overview .....	16
C.2.b	NMFS Report.....	16
C.2.c	Reports and Comments of Advisory Bodies .....	16
C.2.d	Public Comment.....	16
C.2.e	Council Discussion and Guidance on Response to Overfishing of Bigeye Tuna .....	16
C.3	Proposed Council Operating Procedure for Approving Exempted Fishing Permits for Highly Migratory Species .....	16
C.3.a	Agenda Item Overview .....	16
C.3.b	Reports and Comments of Advisory Bodies .....	16
C.3.c	Public Comment.....	16
C.3.d	Council Action: Adopt a Draft COP for Public Review .....	17
D.	Pacific Halibut Management.....	17
D.1	Proposed Changes to the Catch Sharing Plan and Annual Regulations .....	17
D.1.a	Agenda Item Overview .....	17
D.1.b	State Proposals .....	17
D.1.c	Tribal Comments.....	17
D.1.d	Reports and Comments of Advisory Bodies .....	17
D.1.e	Public Comment.....	17
D.1.f	Council Action: Adopt Proposed Changes for Public Review.....	18
D.2	Pacific Halibut Bycatch Estimate for the International Pacific Halibut Commission .....	19
D.2.a	Agenda Item Overview .....	19
D.2.b	NMFS Report.....	19
D.2.c	Reports and Comments of Advisory Bodies .....	19
D.2.d	Public Comment.....	19
D.2.e	Council Guidance on Bycatch Estimation.....	19
E.	Habitat.....	19
E.1	Current Habitat Issues .....	20
E.1.a	Report of the Habitat Committee .....	20
E.1.b	Reports and Comments of Advisory Bodies .....	20
E.1.c	Public Comment.....	21
E.1.d	Council Action: Consider HC Recommendations.....	21
F.	Groundfish Management .....	21
F.1	Status of 2005 Groundfish Fisheries and Consideration of Inseason Adjustments .....	21
F.1.a	Agenda Item Overview .....	21
F.1.b	Report of the GMT.....	21
F.1.c	Reports and Comments of Advisory Bodies .....	22
F.1.d	Public Comment.....	22
F.1.e	Council Action: Adopt Preliminary or Final Inseason Adjustments for the 2005 Groundfish Fishery.....	22
F.2.	NMFS Report .....	22
F.2.a	Regulatory Activities .....	22
F.2.b	Science Center Activities .....	24
F.2.c	Reports and Comments of Advisory Bodies .....	24
F.2.d	Public Comment.....	24
F.2.e	Council Discussion.....	24

F.3	Amendment 18 (Bycatch).....	25
F.3.a	Agenda Item Overview .....	25
F.3.b	Reports and Comments of Advisory Bodies .....	25
F.3.c	Public Comment.....	25
F.3.d	Council Action: Adopt Fishery Management Plan Text and Regulatory Recommendations for Public Review .....	25
F.4	Amendment 19 (Essential Fish Habitat).....	28
F.4.a	Agenda Item Overview .....	28
F.4.b	Reports and Comments of Advisory Bodies .....	28
F.4.c	Public Comment.....	28
F.4.d	Council Action: Adopt FMP Text for Public Review .....	28
F.5	Final Consideration of Inseason Adjustments, If Necessary .....	31
F.5.a	Agenda Item Overview .....	31
F.5.b	Report of the GMT.....	32
F.5.c	Reports and Comments of Advisory Bodies .....	32
F.5.d	Public Comment.....	32
F.5.e	Council Action: If Necessary, Adopt or Confirm Final Inseason Adjustments for the 2005 Groundfish Fishery .....	32
F.6	Process and Schedule for 2007-2008 Biennial Management Specifications Adoption.....	32
F.6.a	Agenda Item Overview .....	32
F.6.b	Reports and Comments of Advisory Bodies .....	32
F.6.c	Public Comment.....	33
F.6.d	Council Action: Adopt the Process and Schedule for Consideration of 2007-2008 Groundfish Fishery Management Specifications .....	33
F.6.d	Revisited .....	34
F.7	Rebuilding Plan Revision Policy.....	34
F.7.a	Agenda Item Overview .....	34
F.7.b	Scientific and Statistical Committee Report .....	34
F.7.c	Reports and Comments of Advisory Bodies .....	34
F.7.d	Public Comment.....	35
F.7.e	Council Action: Adopt Final Policy.....	35
F.8	Stock Assessments for 2007-2008 Groundfish Fisheries .....	35
F.8.a	Agenda Item Overview .....	35
F.8.b	SSC Report.....	36
F.8.c	Reports and Comments of Advisory Bodies .....	37
F.8.d	Public Comment.....	37
F.8.e	Council Action: Approve Stock Assessments for 2007-2008 Groundfish Fisheries .....	37
F.9	Management Specifications for Spiny Dogfish and Pacific Cod for 2006.....	39
F.9.a	Agenda Item Overview .....	39
F.9.b	Reports and Comments of Advisory Bodies .....	39
F.9.c	Public Comment.....	39
F.9.d	Council Action: Adopt 2006 Harvest Specifications (Optimum Yield and Acceptable Biological Catch) and Management Measures for Public Review .....	39
G.	Salmon Management .....	40
G.1	Klamath River Fall Chinook Conservation Objective.....	40
G.1.a	Agenda Item Overview .....	40
G.1.b	Report of the Salmon Technical Team.....	40
G.1.c	Reports and Comments of Advisory Bodies .....	40
G.1.d	Public Comment.....	41
G.1.e	Council Guidance on Further Consideration of Amending the Conservation	

Objective.....	41
G.2 Salmon Methodology Review .....	42
G.2.a Agenda Item Overview .....	42
G.2.b Agency and Tribal Reports and Comments .....	42
G.2.c Model Evaluation Workgroup Report.....	42
G.2.d Reports and Comments of Advisory Bodies .....	42
G.2.e Public Comment.....	43
G.2.f Council Action: Final Prioritization and Scheduling of the Review of Salmon Methodology Changes for the 2006 Season.....	43
H. Marine Protected Areas.....	43
H.1 Channel Islands National Marine Sanctuary .....	43
H.1.a Agenda Item Overview .....	43
H.1.b Statement of the CINMS Staff .....	43
H.1.c Reports and Comments of Advisory Bodies.....	45
H.1.d Public Comment.....	45
H.1.e Council Action: Consider Proposed Draft Fishing Regulations under National Marine Sanctuaries Act Authority for Public Review .....	45
4 P.M. PUBLIC COMMENT PERIOD.....	46

A closed session was held on Monday, September 19, 2005 to discuss personnel and litigation matters.

## **A. Call to Order**

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

Chairman Donald Hansen called the 180<sup>th</sup> meeting of the Pacific Fishery Management Council to order at 8 am, Tuesday, September 20, 2005.

Newly appointed Council member Mr. Rod Moore was sworn into office by Dr. Steve Freese, National Marine Fisheries Service (NMFS).

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

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

Mr. Bob Alverson  
Mr. Phil Anderson  
Dr. Patty Burke  
Mr. Mark Cedergreen  
Dr. Steve Freese  
Mr. Donald K. Hansen (Chairman)  
Dr. David Hanson (Parliamentarian)  
Mr. Jim Harp  
Mr. Jerry Mallet  
Mr. Rod Moore  
CDR. Fred Myer  
Mr. Dave Ortmann (Vice-Chairman)  
Mr. Tim Roth  
Mr. Roger Thomas  
Mr. Darrell Ticehurst  
Ms. Marija Vojkovich  
Mr. Frank Warrens  
Mr. Gordy Williams  
Mr. David Hogan (representing the State Department in place of Mr. Stetson Tinkham)

A short video provided by Mr. Bob Alverson was shown as tribute to the late Mr. Jack Crowley.

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

Dr. McIsaac provided an overview of the 12 informational reports found in the briefing book. Supplemental Informational reports 11 and 12 were highlighted.

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

Chairman Hansen asked for approval of the agenda. The Council approved the agenda as shown in Agenda Item A.4, September Council Meeting Agenda. (Motion 1)

## **B. Administrative Matters**

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

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

Chairman Hansen called for comments. Council members agreed to delay the approval of the April and June minutes until Friday. (Motion 2)

#### **B.1.b Council Action: Approve April and June Minutes**

Mr. Jerry Mallet moved and Mr. Roger Thomas seconded a motion (Motion 21) to approve the April minutes as shown in Agenda Item B.1.b, Draft April 2005 Minutes, and the June minutes as shown in Agenda Item B.1.a, Draft June 2005 Minutes. Motion 21 passed.

### **B.2 Council Meeting Agenda Planning**

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

Dr. McIsaac provided the agenda item overview. He referred the Council to the preliminary draft three meeting outlook and preliminary November agenda, suggesting they review the drafts over the week and be prepared to provide their comments on Friday.

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

None.

#### **B.2.c Public Comment**

None.

#### **B.2.d Council Discussion**

Mr. Moore asked if the GAP and GMT were involved in the scheduling discussions. Dr. McIsaac answered yes and additional opportunity for the finalization of the November agenda will be taken up on Friday.

### **B.3 Legislative Matters (09/23/05; 8:38 am)**

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

Mr. Mike Burner provided the agenda item overview.

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

Mr. Mike Burner highlighted the key points of Agenda Item B.3.b, Supplemental Legislative Committee Report.

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

Ms. Ashcraft provided Agenda Item B.3.c, Supplemental GMT Report. Lt. Dave Cleary provided Agenda Item B.3.c, Supplemental EC Report. Messrs Gerry Richter and Tom Ghio provided Agenda Item B.3.c, Supplemental GAP Report.

### **B.3.d Public Comment**

Mr. Brent Paine, United Catcher Boats, Seattle, Washington  
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, Washington  
Mr. Dave Fraser, F/V Muir Milach, Port Townsend, Washington  
Mr. Mark Cooper, Midwater Trawlers Cooperative, Toledo, Oregon  
Mr. Craig Cochran, F/V Bay Islander, Newport, Oregon  
Mr. Steve Bodner, Coos Bay Trawlers Association, Coos Bay, Oregon  
Mr. Mike Storey, F/V Pegasus, Warrenton, Oregon  
Mr. Jim Seavers, Midwater Trawlers Cooperative, Newport, Oregon  
Mr. Craig Urness, Pacific Seafood Group, Clackamas, Oregon

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

Mr. Tommy Ghio provided a correction to the GAP statement, in the third paragraph on page 2, third sentence, it should say “Remember, the shoreside whiting industry...”.

Mr. Alverson moved and Mr. Warrens seconded a motion (Motion 22) to accept the reports of the Legislative Committee and the Enforcement Consultants. Motion 22 passed. Mr. Moore abstained from the vote on Motion 22.

Mr. Alverson moved and Mr. Cedergreen seconded a motion (Motion 23) to adopt the recommendations of the Legislative Committee regarding Magnuson-Stevens Fishery Conservation and Management Act (MSA) as presented in Agenda Item B.3.b, Supplemental Legislative Committee Report, September 2005. In addition, have the Council send a letter to the Secretary of Commerce requesting his support for the three omissions from the draft reauthorization bill contained in the Legislative Committee’s report and for the protection of existing individual fishing quota (IFQ) programs and IFQ programs currently under development by a Regional Council from new standards that may be enacted under the reauthorization of the MSA. Mr. Alverson spoke in favor of protecting existing IFQ programs such as the sablefish tier program as well as protecting developing programs such as the trawl IQ program.

Mr. Moore asked the maker of the motion whether the motion is intended to protect the existing development of IFQ programs from things such as revised national standards or future determinations on community or processor shares. Mr. Alverson said the intent is that the Council would be held to the IFQ standards in place now and would not be held to any new IFQ development requirements such as a referendum. Mr. Alverson continued to say that if processor shares are authorized, it is not the intent of the motion to prevent their use in the future.

Dr. Freese commented he would be abstaining from any votes regarding this matter of legislative bills and/or direction to Congress unless otherwise instructed by the Department of Commerce.

Mr. Harp noted the EC report had 3 recommendations and asked if those recommendations are included in the motion. Mr. Alverson said the original motion did not but he would accept that recommendation as a friendly amendment. Approved by the maker and seconder of the motion.

Motion 23 passed. Dr. Freese abstained from the vote on Motion 23.

Mr. Alverson moved and Mr. Cedergreen seconded a motion (Motion 24) that the Council respond to Senator Gordon Smith’s request for comment on Senate Bill 1549, Cooperative Hake Improvement and Conservation Act 2005, by directing the Executive Director to write a response that incorporates

the following points:

- Thanks the Senator for providing the Council an opportunity to comment on the legislation.
- Reaffirms the Council's belief that rationalization programs should be developed within the regional Council process.
- Unlike S 1549, the Bering Sea crab rationalization program was developed by the North Pacific Fishery Management Council with Congressional oversight. The Pacific Council wants to be afforded the opportunity to work with members of the industry in crafting a comprehensive rationalization program for the West Coast Pacific Hake Fishery.
- The Council is currently in the process of developing an individual quota (IQ) program for the West Coast trawl fishery, including the hake fishery. The requirement for National Marine Fisheries Service (NMFS) to implement the provisions of the Bill within six months of becoming law is an unrealistic time frame and will likely impede efforts to develop a more comprehensive program in a timely manner.
- There are no provisions to protect against unreasonable accumulation of quota shares by individuals and/or corporations, a feature that must be part of a rationalization program to preserve and protect the unique characteristics of West Coast fishing communities.
- Collection of critical economic data must be mandated.
- Tracking of catches is currently done using paper documents processed by state fish and wildlife agencies. Creation, funding, and maintenance of an electronic tracking system would need to be part of an implementation plan, including the tracking of bycatch allowances required under the bill.
- The issue of U.S. ownership of quota shares needs to be addressed through a regional public process.

Mr. Alverson said the motion intends to complement the actions of the Council at its June meeting regarding the development of the trawl IQ program. Mr. Alverson noted that the Legislative Committee report spoke to eleven different issues regarding S. 1549, but he felt there are more than eleven shortcomings in the existing bill. Many potential impacts of the bill, such as excessive accumulation of shares and community hardships, cannot be known until a complete economic analysis. These analyses need to be completed in an open peer reviewed process and discussed in the Council forum. Similar IQ plans in Australia, New Zealand, and the U.S. mid-Atlantic region have quickly become vertically integrated, an undesirable result for our Pacific whiting fishery or our communities. Without the Council process, we will not know the effects of this IQ program before the program is implemented. Mr. Anderson reminded the Council of the importance of open and public deliberations during the allocation negotiations leading to the American Fisheries Act.

Dr. McIsaac and Ms. Vojkovich asked similar questions regarding the motion and providing comments to Senator Smith's office. Dr. McIsaac noted the current motion seems to duplicate or coincide with recommendations in the adopted Legislative Report, and asked if this motion and the previous motion would supersede the first two recommendations in the Legislative Report. Mr. Alverson said the answer to that would be 'yes'.

Mr. Moore stated he would abstain from the vote. This is more for personal reasons and not due to any conflict of interest. However, he stated that if he were to vote, he would vote in opposition because the LC report has responded to Senator Smith's request for specific recommendations on the bill and should be forwarded to the Senator. He agreed that the LC did not have enough time to go thru all the details of the bill and that he does not agree with all of the LC recommendations but, he still feels that forwarding the LC report would be the best response to Senator Smith this Council could give. Additionally, the Council has heard testimony for and against the bill, but the testimony heard from the people

8 of 47  
Minutes - September 2005 (180<sup>th</sup> Council Meeting)

directly involved in the shore-based whiting industry was in favor of the bill. It would be unfortunate to adopt the motion and ignore the work by the LC.

Mr. Ticehurst voiced reluctant support for the motion. He continued to say that a good IQ program is one that is beneficial to all participants in the fishery and this bill could go a long way in that regard. However, he felt that any IQ program should be developed within the Council process.

Dr. Burke opposed the motion for reasons of content. The LC met for short period of time relative to the importance of the issues discussed. Due to these constraints, people were asked to testify prior to LC deliberations. Given the short time, it is impressive that the content of the LC report more than adequately covers key issues. Mr. Alverson's motion has a lot of issues, some of which are well worded and could be supported. However, there has not been time to review the specifics in writing and Dr. Burke had concerns about preempting the first motion on this matter (motion 23). Mr. Warrens stated support for Dr. Burkes arguments.

Mr. Anderson moved to amend Motion 24, to have the comments of the LC included in the proposed letter to Senator Smith along with one additional point, "The issue of what the appropriate division of harvester and processors shares, if any, in a dedicated access system needs to be part of a debate within the regional Council process." Ms. Vojkovich seconded the amendment.

Mr. Anderson, stated that based on some of the public comment he felt the Council needs to address not only the issue of if there should be harvester and processor shares but, also, what is the appropriate division of shares. This needs to be done in an open and deliberative public process. Mr. Anderson felt the points in Mr. Alverson's motions were good and were not necessarily addressed in the LC report and stated that he would expect that where overlap existed between the main motion and the LC report, the LC report would take precedent.

Mr. Moore said the Council acted in June to send out preferred alternatives on the trawl IQ program. Assuming the MSA is amended next year to allow consideration of processors as part of an IQ program, and the Council has adopted preferred alternatives based on work by the TIQC, would the Council action on trawl IQs need to be retracted or revisited to complete the Council process.

Dr. McIsaac said the Council did not adopt a preferred alternative in June but rather, a range of alternatives for analysis including a recommendation that processor shares be analyzed. Mr. Moore then asked Ms. Cooney about the NMFS interpretation of the prohibition on the Council considering processor shares as contained in an appropriation bill. Specifically, does the prohibition end at the end of the fiscal year? Ms. Cooney stated that her understanding is that the ban on considering processor shares did end with the fiscal year, but the Council still does not have the authority to implement processor shares.

Dr. Hanson, while not taking a position on the motion or the amendment, clarified that the Council adopted alternatives, as developed by the TIQC, include provisions like S. 1549 which allows processors to hold fishing quota. What is not included in the IQ alternatives is the concept of processor quotas.

Mr. Moore added, the cooperative shares for processors in S.1549 cannot be fished by processors. Dr. McIsaac said his recollection is the same as NOAA GC's, that being the appropriation bill for fiscal year 2004 contained the prohibition on considering processor shares and it expired on September 30, 2005. The appropriation bill for fiscal year 2005 contained no such prohibition.

Chairman Hanson asked for vote on Mr. Andersons' amendment.

Mr. Warrens asked for Phil's motion to amend be restated. Dr. McIsaac repeated the amendment.

Voice vote on the amendment to Motion 24 passed, Mr. Moore and Dr. Freese abstained from the vote on the amendment to Motion 24. Voice vote on main Motion 24 passed.

Dr. Hanson stated that the LC did not have time at this meeting and should anticipate a full agenda for November, including the possibility of a new draft of S. 1549 as well as new bills regarding MSA reauthorization. It would be helpful to have the Council convey specific MSA reauthorization issues to the Council staff two weeks prior to the next LC meeting to help focus the discussions on the most important matters.

#### **B.4 Fiscal Matters (09/23/05; 11:47 am)**

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

Dr. John Coon provided the agenda item overview.

##### **B.4.b Budget Committee Report**

Mr. Jim Harp provided the Budget Committee Report.

##### **B.4.c Reports and Comments of Advisory Bodies**

None.

##### **B.4.d Public Comment**

None.

##### **B.4.e Council Action: Consider Recommendations of the Budget Committee**

The Council approved the report of the Budget Committee as shown in Agenda Item B.4.b, Supplemental Budget Committee Report. (Motion 25)

#### **B.5 Appointments to Advisory Bodies, Standing Committees, and Other Forums (09/23/05; 11:52 am)**

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

Mr. Chuck Tracy presented the agenda item overview.

##### **B.5.b Agency and Tribal Comments**

None.

##### **B.5.c Report and Comments of Advisory Bodies**

None.

##### **B.5.d Public Comment**

None.

##### **B.5.e Council Action: Consider Changes to COPs, Appoint New Members, and Solicit Nominations as Necessary**

Mr. Anderson moved (Motion 26) to modify Council Operating Procedure (COP) 7 to include the Minutes - September 2005 (180<sup>th</sup> Council Meeting)

following non-voting advisors to the Groundfish Allocation Committee as formal members: Ms. Kathy Fosmark, Open Access Fisheries; Mr. Peter Leipzig, Non-Whiting Trawl Fisheries; Ms. Michele Longo-Eder, Fixed Gear Fisheries; Mr. Bob Osborn, Recreational Fisheries; Mr. Burr Heneman, Conservation; and a vacant seat for the Processor Representative. Mr. Cedergreen seconded the motion. Motion 26 passed.

Mr. Anderson moved (Motion 27) to add to the November agenda the consideration of further modifying COP 7 to add a 7<sup>th</sup> non-voting member to the Groundfish Allocation Committee representing the Whiting Fishery Sector, and in anticipation of that action, request staff to seek nominations for that seat. Mr. Cedergreen seconded the motion. Motion 27 passed.

The Council made the following appointments:

- Dr. Stephen Stohs to replace Dr. Sam Herrick on the Highly Migratory Species Management Team (Motion 28)
- Ms. Heather Munro Mann to fill the processor sector vacancy on the Groundfish Advisory Subpanel (Motion 29)
- Ms. Heather Munro Mann to fill the vacancy on the Groundfish Allocation Committee for a non-voting advisor to represent the processor sector (Motion 30)
- Mr. Neil Guglielmo to fill the vacancy on the Coastal Pelagic Species Advisory Subpanel representing the California commercial fishery sector (Motion 31)
- Mr. Calvin Frank to fill the vacancy on the Salmon Advisory Subpanel to represent the Washington Coast Tribal seat (Motion 32)

Chairman Hanson announced the following appointments to standing and ad hoc committees:

- Mr. Rod Moore to replace Mr. Ralph Brown on the Legislative Committee.
- Mr. Donald Hansen as a new member on the Legislative Committee.
- Ms. Marija Vojkovich to replace Mr. Ralph Brown on the Groundfish Strategic Plan Implementation Oversight Committee.
- Ms. Diane Pleschner-Steele to replace Mr. Orlando Amoroso on the Marine Protected Areas Committee (non-voting advisor).
- Mr. Brian Corrigan to replace LT Gregg Casad and Mr. Tony Warrenton to replace Ms. Nancy Foley on the Trawl Individual Quota Enforcement Group.
- Mr. Donald Hansen as a new member on the Coastal Pelagic Species Tribal Allocation Committee.
- Mr. Brian Corrigan to replace LT Gregg Casad and Ms. Heather Munro Mann to replace Mr. Rod Moore on the Vessel Monitoring System Committee.

The Council directed staff to continue to solicit nomination for the conservation group seat on the CPSAS. Ms. Vojkovich suggested that the solicitation be posted on the Council's website only, as this nomination has been advertised in the past. Council Members concurred. Mr. Tracy suggested this vacancy not be put on the Council's agenda until a nomination(s) was received; the Council concurred.

## **B.6 Council Three Meeting Outlook, Draft November 2005 Council Meeting Agenda, and Work Load Priorities (09/23/05; 12:09 pm)**

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

Dr. McIsaac provided the agenda item overview.

### **B.6.b Reports and Comments of Advisory Bodies**

Ms. Ashcraft provided Agenda Item B.6.b, Supplemental GMT Report. Mr. Ghio provided comments for the GAP with regard to the timing of agenda items G.2, G.3, and G.4 on Tuesday. He believes the inseason item (G.4) will be a big issue and needs to be delayed till Wednesday. This would allow more interaction and time to run the models.

### **B.6.c Public Comment**

None.

### **B.6.d Council Guidance on Council Three Meeting Outlook, November Council Agenda, Council Staff Work Load, and Priorities for Advisory Body Consideration**

Council members worked with Council staff, the Chairman and the Executive Director to provide guidance to set the November agenda, staff work load, and advisory body priorities. Council members also provided their relative priorities for GMT workload and review. The Council agreed that the Legislative Committee might need to meet after the November meeting rather than during it.

In revisiting the schedule for development of the groundfish specifications EIS, the Council clarified their preference for a GMT meeting the week of January 9 and an Allocation Committee meeting in February which would include attendance by the GAP chair at the February meeting.

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

### **C.1.NMFS Report**

#### **C.1.a Regulatory Activities (09/20/05; 8:45 am)**

Mr. Craig Heberer provided an overview of regulatory activities. Council members asked questions about vessel marking requirements, activity under a recent permit for transporting live bluefin tuna, and implementation of logbook requirements. Mr. Mark Helvey reported on the 2005 Inter-American Tropical Tuna Commission (IATTC) annual meeting. He highlighted the 2004-2005 resolutions (Agenda Item C.1, Attachment 2), in particular the albacore resolution (Agenda Item C.1 Attachment 3) and bigeye tuna conservation measures, which will expire in 2006. He said the Council has an opportunity to comment on these resolutions.

Mr. David Hogan, Department of State, discussed the albacore resolution and the need to follow up with the Western and Central and Pacific Fisheries Commission. He also described the Antigua Convention, which is a renegotiation of the agreement establishing the IATTC. Mr. Ticehurst asked whether the albacore discussion included recreational fishing. Mr. Hogan said they have not touched specifically on recreational fishing, but focused only on commercial fisheries. Mr. Alverson, referencing the letter from Rod McInnis (see Agenda Item C.1 Attachment 3), asked about the provision in the albacore resolution on the development of albacore fisheries in countries where such fisheries are currently undeveloped. Mr. Hogan said a strategy was being negotiated and any such development would be very small and limited, and could be revisited in future negotiations. Mr. Alverson then asked if there are any specific benchmarks for what is considered small scale. Mr. Hogan said the provision allows for, but does not encourage, development of albacore fisheries. Ms. Vojkovich, also referring to the McInnis letter, asked about whether the limit on bigeye tuna would be revisited at a future date. Mr. Hogan said it is a multi-year resolution that expires in 2006. In 2006 the resolution is up for renegotiation. The limits can be reconsidered along with other components, such as measures applicable to the purse seine

13 of 47  
Minutes - September 2005 (180<sup>th</sup> Council Meeting)

fishery.

Mr. Anderson asked Mr. Helvey to describe the current boundaries of the convention area and those under the Antigua Convention. Mr. Helvey responded that the Convention would expand the boundaries from 40° latitude N and S to 50° N and S.

Ms. Vojkovich asked Mr. Helvey whether the data used for the annual report to the IATTC under the shark resolution come from the PacFIN database. Mr. Helvey said all the data comes from PacFIN. She then asked whether there is need to discuss PacFIN funding issues, given this use of the data. Mr. Helvey said that was a good idea.

Mr. Anderson asked Mr. Helvey to characterize the Council's role with respect to the albacore resolution in terms of implementing measures to limit fishing effort. Mr. Helvey referenced the resolution, noting it was somewhat ambiguous. He said the Council could help NMFS decide how this should be interpreted in terms of accomplishing the purpose of the resolution while maintaining long-term sustainability for West Coast albacore fishermen.

Mr. Helvey referred the Council to Agenda Item C.1.a., Supplemental NMFS Report, which is a summary of an informal meeting of the Northern Committee of the WCPFC. There is an opportunity for the Council to provide comments to the U.S. delegation to the WCPFC.

Mr. Alverson asked if NMFS is handling implementation of the IATTC resolution on VMS. Mr. Helvey said NMFS would handle it under the Tuna Conventions Act, but NMFS did have a question about its applicability to recreational charter vessels and asked if the Ad Hoc VMS Committee could discuss this at their upcoming meeting.

Dr. Burke asked if NMFS was planning informational meetings in Oregon with respect to HMS issues. Mr. Helvey said yes, such meetings are being planned to gain input on some of the issues discussed here.

Mr. Moore asked if the International Committee for Tuna and Tuna-like Species in the North Pacific (ISC) stock assessment for albacore has been transmitted to relevant Council advisory bodies. Mr. Helvey said he believed it had not yet been finalized.

#### **C.1.b Science Center Activities**

Dr. Gary Sakagawa gave a brief overview of SWFSC activities.

Ms. Robin LeRoux gave a presentation on sea turtles. A copy of the slides was handed out to Council members.

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

None.

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

Mr. Wayne Heikkila, Western Fishboat Owners Association, Redding, California

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

Mr. Anderson said he had four comments. First he said he was not aware of planned meetings between NMFS and Washington State with respect to observer coverage, as mentioned in the NMFS

report. Second, with respect to the resolution there was a provision to report catches every six months. He said he assumed that data would come from PacFIN. He noted the funding problems for the PacFIN system. Mr. Helvey said PacFIN is a supplemental data source, with albacore logbooks to be the main source. Mr. Anderson asked if that the logbook data would be compiled by NMFS. Mr. Helvey said yes, the SWFSC does that. Third and fourth, Mr. Anderson asked for clarification on the request for Council advice on two issues raised in the observer report, coverage and funding levels.

Ms. Vojkovich followed-up with respect to advice on funding for the observer program. She wondered if it would be appropriate to provide direction to the team to identify funding needs. She asked Mr. Hogan about the U.S. strategy with respect to foreign fishery impacts to sea turtles. He reviewed U.S. efforts in terms of negotiating agreements for sea turtle conservation and the development on advice for the reduction of sea turtle mortalities in fisheries. However, he said the same sea turtle conservation measures adopted by the U.S. have not been adopted by regional fishery management organizations, but hoped there would be progress in this direction. He also mentioned other potential measures related to trade and socioeconomic issues with respect to sea turtles.

Ms. Vojkovich then said it was unclear who has authority over the management of recreational fisheries for tunas, referencing issues related to the IATTC resolutions, such as albacore effort limitation and the applicability of VMS. Mr. Hogan responded in the context of the albacore resolution. He said the text of the resolution did not speak to this issue, but the intent was for it to apply to commercial fisheries. The U.S. would continue to talk to other IATTC members about the applicability issue, but regardless, it is NMFS' responsibility for domestic implementation of regulations. The Council has been asked to provide input with NMFS to the IATTC on these issues.

Ms. Vojkovich asked Mr. Helvey how the current level of albacore effort would be defined for the purposes of implementing the resolution. Mr. Helvey said NMFS would seek advice from the Council, HMSAS, and HMSMT about how to define the current level of effort. Ms. Vojkovich asked the Council members if this question should be pursued now or at a future Council meeting under a specific HMS agenda item.

In order to address Ms. Vojkovich's question, Mr. Moore said it would be helpful to know the time frame for developing management recommendations. Mr. Helvey said there is no time frame as he understands it. Mr. Hogan said that the IATTC members did not think it was productive or helpful to specify a time frame. The U.S. has a general obligation to tell the IATTC at the next meeting (June 2006) that effort has not increased beyond the level at the time the resolution was adopted.

Mr. Anderson said he was puzzled about what is expected of the Council. He heard Mr. Helvey say the resolution is not a call to action; but he does not want to sit back and let someone else decide how to define effort.

Dr. McIsaac said this discussion should occur under the agenda item on albacore management scheduled for the November Council meeting. This would provide advance notice to the public and advisory bodies on this topic.

Mr. Helvey said the intent of the McInnis letter (Agenda Item C.1, Attachment 3) to the Council was to provide an opportunity for the Council to be involved in developing the measures. These concerns can then be forwarded to the IATTC. He then discuss the need for both this Council and the Western Pacific Fishery Management Council to work together in looking at what is the amount of albacore and other species that their respective fishing industries represent.

Dr. Burke asked at what point would albacore be declared overfished. Mr. Helvey said there is concern that the albacore stock is approaching the overfishing level, but they are not overfished. It would be the same situation as is being done for bigeye tuna, developing an FMP amendment.

Following up on Ms. Vojkovich's first point on the observer plan, Dr. Dahl said the HMSMT reviewed the report at their May meeting and provided recommendations to the Council at the June Council meeting. If the Council wants to revisit the observer plan and any adoption of the HMSMT recommendations, the Council might consider that as a separate agenda item for the November meeting.

As a follow-up to Dr. Burke's question, Mr. Moore noted that Mr. Helvey said that since we might be approaching overfishing on albacore, the Council's appropriate response would be to limit it further. But he also heard Mr. Helvey say that fishing effort has dropped and the Council does not need to take action at this point. This needs to be discussed in greater depth at the November meeting.

## **C.2 Bigeye Tuna Overfishing Response Update (9/20/05; 10:46 am)**

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

Dr. Kit Dahl provided the agenda item overview.

### **C.2.b NMFS Report**

Mr. Helvey, NMFS, provided a brief report, noting that there was no new information available at this time.

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

None.

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

None.

### **C.2.e Council Discussion and Guidance on Response to Overfishing of Bigeye Tuna**

None.

## **C.3 Proposed Council Operating Procedure (COP) for Approving Exempted Fishing Permits for Highly Migratory Species**

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

Dr. Dahl provided the agenda item overview.

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

Ms. Michele Culver and Dr. Dale Squires from the HMSMT provided Agenda Item C.3.b, Supplemental Revised HMSMT Report. Mr. Alan Byrne provided the SSC report.

### **C.3.c Public Comment**

Dr. Robert Ovetz, Sea Turtle Restoration Project, Forest Knolls, California  
Ms. Kathy Fosmark, fishing community, Pebble Beach, California

### **C.3.d Council Action: Adopt a Draft COP for Public Review**

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 3) that the Council adopt the recommendations from the HMSMT as shown in Agenda Item C.3.b, Supplemental Revised HMSMT Report, incorporating the SSC recommendations, and in both the interim and permanent protocol add the HMSAS to the Review and Approval section.

Mr. Moore said based on experience with how the GAP, GMT, and SSC handle EFPs, he feels the HMSMT has proposed a good process. This does not in any way prejudice any EFPs that could come before the Council in the future or in the interim period.

Dr. McIsaac asked about the public testimony stating that adopting an interim COP or a COP could be a violation of NEPA. Ms. Cooney said adopting the COP is not in violation of NEPA; it is procedural and is called for in the FMP. When a specific EFP proposal is considered NEPA, ESA, and other procedural requirements will be met at that time. Motion 3 passed.

## **D. Pacific Halibut Management**

### **D.1 Proposed Changes to the Catch Sharing Plan and Annual Regulations (09/20/05; 11:21 am)**

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

Mr. Chuck Tracy presented the agenda item overview.

#### **D.1.b State Proposals**

Mr. Anderson presented Agenda Item D.1.b, WDFW Report.

Dr. Burke presented Agenda Item D.1.b, Supplemental ODFW Report and Supplemental ODFW Report 2.

Ms. Cooney asked if the closing date listed on page 3 of Supplemental ODFW Report 2, paragraph C should be by October 31 rather than July 31. Ms. Burke replied yes.

Ms. Cooney asked that the language regarding the Halibut Hotline be restored to the Catch Sharing Plan language recommended in Supplemental ODFW Report 2.

#### **D.1.c Tribal Comments**

Mr. Jim Harp presented Agenda Item D.1.c, Supplemental Tribal Comments

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

Messrs. John Holloway and Wayne Butler presented Agenda Item D.1.d, Supplemental GAP Report.

Dr. Burke asked why the GAP preferred a date trigger to consider raising the bag limit to two fish daily in the Central Oregon subarea rather than the ODFW proposal of a poundage trigger. Mr. Holloway replied the GAP proposal provided more flexibility and would not be tied to the precision of an inseason estimate.

#### **D.1.e Public Comment**

Mr. Mick Buell, Garibaldi Charters, Garibaldi, Oregon  
Mr. Al Barney, Holiday Charters, Nehalem, Oregon  
Mr. Mike Sorenson, charterboat operator, Toledo, Oregon

Dr. Burke asked if Mr. Sorenson had an opinion on the GAP proposal to split the Columbia River subarea and match the three days per week in the second season to the Central Oregon subarea. Mr. Sorenson replied he was not in favor of splitting the Columbia River subarea at the state line, but felt the GAP proposal would provide a good test of putting additional Oregon quota into the subarea in August.

**D.1.f Council Action: Adopt Proposed Changes for Public Review**

Mr. Anderson moved (Motion 4) to adopt for public review, the proposed changes to the Halibut Catch Sharing Plan for 2006, as outlined in Agenda Item D.1.b, WDFW Report. Mr. Cedergreen seconded the motion. Motion 4 passed.

Dr. Burke moved (Motion 5) to adopt for public review, the proposed changes to the Halibut Catch Sharing Plan for 2006, as outlined in Agenda Item D.1.b, ODFW Report, September 2005, and Agenda Item D.1.d, Supplemental ODFW Report, September 2005 with the language changes by Eileen Cooney. Mr. Warrens seconded the motion. Motion 5 passed.

Dr. Burke moved (Motion 6) to adopt for public review, the proposed changes to the Halibut Catch Sharing Plan for 2006 in the Central Oregon subarea, as displayed on the screen:

After the Labor Day weekend the IPHC, NMFS, and ODFW will consult to determine whether increasing the central Oregon coast Pacific halibut bag limit is warranted with the intent that the quota for the subarea is taken by September 30. If the quota is not attained by September 30, the season will remain open, maintaining the bag limit in effect at that time, through October 31 or quota attainment, whichever occurs first.

Mr. Warrens seconded the motion.

Dr. Burke noted the motion addresses the intent of the GAP statement regarding increasing the bag limit to two fish in September for the Central Oregon subarea.

Motion 6 passed.

Dr. Burke moved (Motion 7) to adopt for public review, the proposed changes to the Halibut Catch Sharing Plan for 2006 in the Columbia River subarea, as displayed on the screen:

The sport fishery in this subarea will have a primary and secondary season structure. The allocation for this subarea is 2.0 percent of the first 130,845 lbs (59.4 mt) allocated to the Washington sport fishery, and 4.0 percent of the Washington sport allocation between 130,845 lbs (59.4 mt) and 224,110 lbs (101.7 mt) (except as provided in section (e)(3) of this Plan), and 5.0 percent of the Oregon/California sport allocation. The primary season is allocated the full amount of the Washington contribution and, from the Oregon/California sport allocation, the number of pounds equal to the Washington contribution. This subarea is defined as waters south of Leadbetter Point, WA (46 deg, 38.17' N. lat.) and north of Cape Falcon, OR (45 deg, 46.00' N. lat.). The primary season will take place beginning on May 1, and continue 7 days per week until the allocation for the primary season is estimated to have been taken, or July 31, whichever is earlier. The secondary season will reopen on Friday of the following week by NMFS via an update to the recreational

halibut hotline, and will be managed under two, individual state subquotas. The ports in the area from Cape Falcon north to the Washington/Oregon border (46 deg, 16.00' N. lat.) will be allocated 50 percent of the remaining allocation from the primary season, plus the difference between the Oregon contribution to the primary season and 5.0 percent of the Oregon/California sport allocation. These ports south of the border will remain open three days per week (Friday, Saturday, and Sunday) until the secondary season allocation is estimated to have been taken, or September 30, whichever is earlier. The ports in the area from the Washington/Oregon border north to Leadbetter Point would be managed not to exceed 50 percent of the remaining allocation from the primary season, plus additional quota transferred from other Washington subareas, if any. These ports north of the border will remain open three days per week (Friday, Saturday, and Sunday) until the secondary season allocation is estimated to have been taken, or September 30, whichever is earlier. Subsequent to the closure of the secondary season, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution. The daily bag limit is one halibut per person, with no size limit. No rockfish may be landed, if halibut are on board the vessel.

Mr. Warrens seconded the motion.

Motion 7 passed.

## **D.2 Pacific Halibut Bycatch Estimate for the International Pacific Halibut Commission**

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

Mr. Tracy presented the agenda item overview.

### **D.2.b NMFS Report**

Dr. Jim Hastie gave a powerpoint presentation summarizing the information included in Agenda Item D.2.a, Supplemental Attachment 1.

Mr. Anderson asked if the trawl fishery estimates included tribal trawl fisheries. Dr. Hastie replied the estimate only included non-Tribal fisheries, which have a log book program.

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

Mr. Bob Conrad presented Agenda Item D.2.c, Supplemental SSC Report.

### **D.2.d Public Comment**

None.

### **D.2.e Council Guidance on Bycatch Estimation**

Mr. Anderson recommended the Council accept the report, and forward the report and estimates derived in the report to the IPHC for the 2006 management year.

## **E. Habitat**

## **E.1 Current Habitat Issues**

### **E.1.a Report of the Habitat Committee (HC)**

Mr. Stuart Ellis presented Agenda Item E.1.a, Supplemental HC Report.

Mr. Hansen asked if the cause of the algae bloom in the Klamath Basin was known. Mr. Ellis believed it was a byproduct of river management and elevated temperatures.

Ms. Vojkavich asked if the Klamath water bank issue has been brought up to the Bureau of Reclamation (BOR) in previous Council letters. Mr. Ellis replied the Council letters have not specifically addressed the current water bank program, but have requested a transparent and open accounting system. The State of California and the Klamath tribes have made BOR aware of the issues.

Ms. Vojkavich asked if the HC was recommending including the water bank issue in a response letter. Mr. Ellis replied the topic was included primarily for informational purposes, and the Council could decide the level of technical issues taken up with the BOR. The HC was concerned with the courtesy copy list in the BOR letter, as it included numerous Congressional members, and the impression their letter gave indicating everything was acceptable in the Klamath Basin because of the water bank program. The HC felt it was important for the BOR and the Congressional members to understand there were numerous issues brought up by the Council, in addition to the structure and administration of the water bank program, which the BOR failed to respond to in its letter to the Council.

Ms. Vojkavich asked if there was a priority inferred in regard to the list of potential non-fishing activities affecting EFH to be addressed in the proposed policy document for marine water development projects. Mr. Ellis replied no, it was just a list of examples, and was not meant to be all inclusive or prioritized.

Mr. Warrens asked if the Columbia River fingerling survival results included barged fish. Mr. Ellis replied no, only in-river migrants were evaluated.

Mr. Warrens asked if the barging program in 2005 was expanded. Mr. Ellis replied the program was operated as in the past, but because of the increased spill, the proportion of fish collected for barging was lower in 2005.

Dr. McIsaac asked if the HC reviewed the South Atlantic Fishery Management Council (SAFMC) guidance document on energy development. Mr. Ellis replied no, not all of the HC had the document, and no one had read the entire document, but a brief overview indicated there may be some analogous situations in the Pacific Council region.

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

Mr. Don Stevens and Mr. Richard Heep (for Mr. Jim Welter, SAS) presented Agenda Item E.1.b, Supplemental SAS Report.

Ms. Vojkavich asked what the SAS recommendations were. Mr. Heep replied the SAS shared the same concerns as the HC, and endorsed the HC recommendation relative to the response letter to BOR.

Dr. McIsaac asked if the SAS recommended abandoning the water bank. Mr. Heep replied the water bank program should be modified to permanently acquire water rights and retire them rather than renting them.

### **E.1.c Public Comment**

None.

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

Ms. Vojkovich noted the back and forth letter campaign with BOR may not be productive and questioned its importance.

Mr. Melcher agreed with Ms. Vojkavich, but feels the Magnuson Act requires the Council to comment on these issues.

Mr. Roth noted the Council has written many letters to the BOR and Department of Interior, and this is one of the few responses received. However, based on the courtesy copy list, it is important that the Council set the record straight.

Dr. McIsaac noted the HC recommended the Council write a response to the BOR letter for approval at the November Council meeting. Mr. Hansen directed the HC to proceed with the response letter.

Mr. Tracy noted the HC also requested guidance on prioritizing review of the SAFMC energy development document. Ms. Vojkovich recommended the HC review the document and report to the Council on the applicability and utility of a similar document for the Pacific Council.

## **F. Groundfish Management**

### **F.1 Status of 2005 Groundfish Fisheries and Consideration of Inseason Adjustments (09/20/05; 2:52 pm)**

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

Mr. John DeVore provided the agenda item overview.

#### **F.1.b Report of the GMT**

Ms. Susan Ashcraft provided Agenda Item F.1.b, Supplemental GMT Report. Mr. Merrick Burden joined her at the podium.

Mr. Anderson addressed the GMT recommendation to increase the widow rockfish bycatch cap in the whiting fishery and asked if only the catcher-processor sector remained open to fishing. Mr. Burden said yes, the mothership sector was not expected to resume fishing. Mr. Anderson asked what level of widow rockfish cap increase was recommended and Ms. Ashcraft said something less than 26.8 mt, maybe less than or equal to 25 mt. Mr. Anderson asked if 10 mt of widow were added to the cap, would there be 16.8 mt of widow in reserve and Ms. Ashcraft said yes.

Mr. Alverson asked if there was a change in the fleet or in delivery patterns for the daily trip limit (DTL) fishery this year. Ms. Ashcraft said quota attainments and deliveries are down this year relative to recent years.

Mr. Moore asked if trawl Option B failed due to canary rockfish concerns and Ms. Ashcraft said yes. About 2 mt of canary would be taken under Option B, but there are only 0.2 mt in reserve. Mr. Moore asked about the 35,000 pound trip limit in period 5 north of 40°10' N lat. and Mr. Burden said 21 of 47 Minutes - September 2005 (180<sup>th</sup> Council Meeting)

that proposed trip limit was designed to allow selective flatfish trawl gear seaward of the RCA. Mr. Moore asked why the GMT was not recommending slope rockfish trip limit increases with petrale sole trip limit decreases. Ms. Ashcraft said the GMT's evaluation indicated the darkblotched rockfish and petrale sole take would be too high. She said the GMT would re-evaluate this in November. Mr. Moore said processors put petrale sole landing limits into effect after the NMFS warning of a high petrale sole take.

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

Mr. Dale Myer provided Agenda Item F.1.c, Supplemental GAP Report.

Mr. Anderson asked if the mothership sector was done fishing whiting this year and Mr. Myer said there may be one vessel coming back to fish. Mr. Anderson asked if a 10 mt widow rockfish cap increase would be sufficient and Mr. Myer said they were going to recommend a 12-13 mt increase.

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

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

#### **F.1.e Council Action: Adopt Preliminary or Final Inseason Adjustments for the 2005 Groundfish Fishery**

Mr. Moore moved and Mr. Anderson seconded a motion (Motion 8) to adopt the recommendations of the GMT, as shown in Agenda Item F.1.b, Supplemental GMT Report for groundfish inseason adjustments, with an increase in the whiting fishery bycatch cap for widow rockfish from 200 mt to 212 mt.

Mr. Moore felt this goes along with the achievement of National Standard 1. He regretted the Council could not accommodate the nearshore trawl fishery. He felt the team did a good job.

Dr. Burke asked if the bycatch scorecard was updated yet with the inseason adjustments and Mr. DeVore said the GMT's intent was to provide an updated scorecard under agenda item F.5.

Ms. Vojkovich asked about the salmon take in the whiting fishery and whether increased bycatch is likely with the increase in the widow rockfish cap. Dr. Peter Dygert said they are reinitiating consultation to consider Chinook bycatch, and have taken emergency action to close the whiting fishery inseason in depths less than 100 fm. That has reduced bycatch. With those reductions, they are still under 12,000 Chinook. In conjunction with the inshore closure of the fishery, they anticipate 12,000 to 14,000 Chinook will be taken this year in that fishery. Mr. Moore thought the whiting fishery had exceeded the 11,000 Chinook cap two or three times in the past. Dr. Dygert said yes, the cap was exceeded in 1995 and 2000. This is the third time in 15 years. Overall the fishery has been within the conservation trigger. Mr. Anderson asked when Columbia/Snake River fall Chinook were listed under the ESA and Dr. Dygert said 1992.

Dr. McIsaac asked Mr. Moore if the proposed DTL increase was for north of 36° N lat. only and Mr. Moore said yes. Motion 8 passed.

#### **F.2. NMFS Report (09/21/05; 10:57 am)**

##### **F.2.a Regulatory Activities**

Dr. Freese referred the Council to supplemental Attachment F.2.a, a list of *Federal Register* notices published between June and September. He noted that the Amendment 14(b) regulations are

being reviewed by the Department of Commerce prior to publication in the *Federal Register*. A draft VMS EA was handed out at this meeting. It will be updated for the November briefing book. Regarding Amendment 18 (bycatch), NMFS is developing a practicability analysis to discuss the cost of implementing the amendment. In addition, a report on the whiting fishery will be available on the NMFS website. Dr. Freese briefly summarized the report. In November, NMFS will provide a shore-based whiting full retention monitoring program draft EA for the Council to review.

Dr. Freese then discussed Informational Report #9, which indicates that black rockfish was overfished. This report is a 2004 report based on 2002-2003 data. NMFS NWR analyzed total fishing mortality on all species using 2002-2003 data. The reported conclusion that the black rockfish stock was subject to overfishing in 2003 was based on analysis of recreational and tribal catch data. Our initial estimate assigned the recreational catch of black rockfish off of California to the Eureka area, so we had an indication of overfishing. The GMT looked at the data in 2005, and found that Monterey and Conception recreational catches had been assigned to the Eureka area. The mistake was not noticed in time for corrections to be made to the report. NMFS is moving to a new process where quarterly updates on overfished and non-overfished species will be posted on the NMFS website. The black rockfish numbers will be corrected in October when the website is updated. This new quarterly reporting system will allow NMFS and the Council to avoid the December/January rush and will allow the Council to work with the Region to develop a more formal process to deal with rebuilding plan requirements for overfished species. Dr. Freese apologized for the series of mistakes made in the computations and said that NMFS seeks the Council's help in developing ways to ensure these mistakes don't happen again.

Mr. Moore asked if the EA for VMS had been handed out. Dr. Freese said it was given to the advisory bodies so they could prepare for the next meeting, and that he would be more than glad to provide it to the Council.

Ms. Vojkovich asked if shortspine thornyhead was on the list of stocks subject to overfishing in 2003 in the NMFS report. Dr. Freese said it was. Ms. Vojkovich asked for clarification regarding shortspine. Dr. Freese referred the question to Ms. deReynier, who said there is confusion regarding the terms "overfished" and "overfishing." Overfishing is harvest at a rate that is unsustainable in a given year or period of years. In the case of shortspine thornyhead, "overfishing" had occurred, but the stock was not "overfished." Mr. Moore asked if the overfishing had occurred only in one specific year, and had not reoccurred. Ms. deReynier said yes, overfishing occurs when ABC is exceeded for any one given year. For shortspine, overfishing occurred for just one year, 2003. Ms. deReynier noted that due to the regional deadline in January 2005, NMFS did not have complete information on the 2004 fishery, so it was reporting on 2003. Unfortunately, the catches were reported incorrectly as occurring in 2004.

Mr. Anderson asked if the black rockfish overfishing in the 2005 report occurred in 2003. Ms. deReynier said that was correct.

Ms. Cooney reported on an August decision by the Ninth Circuit Court of Appeals on a lawsuit challenging the 2002 groundfish management measures specifications. The decision is not final since it can be appealed. The lawsuit addressed darkblotched rebuilding, and there were two main issues. The first was that in the first year, the rebuilding analysis said darkblotched could be rebuilt within 10 years, and the OY was set at 130 mt. The next assessment showed it was in worse shape and couldn't be rebuilt in 10 years. In that case, the National Standard Guidelines allow for rebuilding in the minimum time to rebuild plus one mean generation time. The time period was lengthened and the OY was raised. The ruling on the second issue, which was favorable to NMFS, had to do with catch overages from year to year. In 2002, there were three stocks without stock assessments, so we used the most current rebuilding analysis to set the OY. The challenge was to account for overages from prior years. Typically,

we deal with overages when we do stock assessments. In addition, if there is an overage one year, we adjust management measures the following year in order to avoid another overage. The District Court and the Court of Appeals found that was a reasonable approach. However, the Court disagreed with how the darkblotched rebuilding time was set, saying the interpretation of the National Standard Guidelines here was not permissible. Ms. Cooney went on to describe the case in detail, and said the court had a strong argument. This case specifically talked about darkblotched, but the underlying law will be used by the courts in this region. Ms. Cooney said that NOAA GC's initial guidance to the Council is that this decision needs to be taken into account in developing the 2007-2008 harvest specifications and management measures. The court's discussion of the "shortest time possible, taking into account the biology of the stocks and needs of fishing communities" needs to be considered as the rebuilding standards and specifications are developed. NMFS and NOAA GC will consult on more specific guidance to the Council. The guidance will emphasize what is the shortest time possible for rebuilding, and what are the needs of fishing communities. Very specific information will need to be developed about that for the upcoming record.

### **F.2.b Science Center Activities**

Drs. Elizabeth Clarke and Jim Hastie provided a PowerPoint presentation. The report summarized new assessment results for 23 species, including species under rebuilding. Dr. Clarke noted that although much had been accomplished this year, doing 18 full and 5 updated assessments in one year was not a sustainable workload. There were also too many assessments reviewed at each STAR Panel. The canary rockfish, lingcod, and petrale sole assessments will be going to the "mop-up" STAR Panel at the end of the month.

Dr. Clarke noted that bottom trawl surveys are ongoing; the hake acoustic survey has been completed, despite the transducer gear falling off the ship; and NMFS will begin mapping proposed EFH areas in October, primarily Coquille and Daisy Bank off Oregon and Santa Lucia bank off California. She reported on a meeting with an industry/NMFS collaborative group designing a widow rockfish acoustic survey, which will be tested this winter. Observer reports, a report on salmon bycatch, and a report on California halibut bycatch have been posted on the NMFS website. A sablefish workshop is being planned for 2006, and the Western Groundfish meeting will be in Newport in February.

Mr. Moore asked if the current whiting stock was below  $B_{40\%}$ . Dr. Hastie said it was just slightly below.

Dr. McIsaac recognized the SSC, the STAR panels, the data workshops, stock assessment authors, and others involved in preparing the assessments and getting the biennial management schedule on track. Chairman Hansen agreed.

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

None.

### **F.2.d Public Comment**

None.

### **F.2.e Council Discussion**

Ms. Vojkovich asked if there would be a discussion of widow rockfish under this item. Dr. McIsaac said this would be discussed under agenda item F.8. The current stock assessment for widow indicates it had not previously dipped below the overfishing threshold, but the previous stock assessment says it had, and that was the basis for the declaration of it being overfished. The question now is whether there is

a policy for situations when new scientific information retrospectively changes the history of whether or not a stock has been at an overfished threshold.

Ms. Cooney said the science needs to inform the law, and that NOAA GC is planning to discuss this more internally. Dr. Freese said this issue had not been thoroughly covered in the Act and related policies. Retrospective analysis has been used before in whiting and widow situations. Dr. Freese recommended that the Council send a letter to NMFS requesting guidance. A letter from the Council would trigger NMFS to think about this and inform NMFS about these situations.

Mr. Moore asked when the Council should address such a letter. Chairman Hansen said this would be discussed under F.8.

### **F.3 Amendment 18 (Bycatch) ) (09/21/05; 1:05 pm)**

Dr. Bob Lohn complimented Council members for their time and energy and level of devotion to the process. He also presented a certificate of reappointment to Council member Mark Cedergreen and a certificate of appointment to new Council member Rod Moore.

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

Dr. Dahl provided the agenda item overview.

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

Ms. Susan Ashcraft provided Agenda Item F.3.b, Supplemental GMT Report. Mr. Kenyon Hensel provided Agenda Item F.3.b, Supplemental GAP Report.

#### **F.3.c Public Comment**

Mr. Pete Huhtula, Pacific Marine Conservation Council, Astoria, Oregon

Ms. Megan Mackey, Pacific Marine Conservation Council, Astoria, Oregon

Mr. Ed Johnston, fisherman, Toledo, Oregon

#### **F.3.d Council Action: Adopt Fishery Management Plan (FMP) Text and Regulatory Recommendations for Public Review**

Ms. Vojkovich asked about the discussion on page two of the Draft Bycatch Mitigation Program Work Plan (Agenda Item F.3.a Attachment 2), about bycatch mitigation measures and programs currently in place or under development. She said the last time the Council discussed this we were concerned that we have not documented the type of bycatch or mitigation measures we currently have in place. Is this discussion just to make sure we have all of the tools and actions contained in the amendment document as general tools? She did not see specifics in any document.

Dr. Dahl said this is just to document what the Council has done to date in terms of bycatch mitigation; there is not a parallel accounting in the proposed FMP amendment language. Because it is a framework plan, the intent is to talk in more broad terms about the types of monitoring and mitigation measures are available to the Council.

Ms. Cooney said a lot of this stuff gets lost in different places; some of these things are described in the FMP itself; some of the things are required by the FMP but implemented in regulations. This is just an overall summary.

Mr. Dave Colpo was asked to brief the Council on the PSMFC's electronic fish ticket data information program. Mr. Colpo said that as a program manager for PacFIN he is involved in projects both in Alaska and for the Pacific Coast. The program in Alaska is currently being implemented. He said he would like to take advantage of what PSMFC has learned in Alaska to implement a similar program on the West Coast. It is a web-based program. Right now he is working with contractors to gather information from processors about the best way to implement such a program from their perspective. He said he would like to build a system they would like to use rather than a mandatory system they are forced to use. He is also talking to the states. Their main issue is that any such system has to be compatible with their existing fish ticket systems.

Dr. McIsaac asked Mr. Colpo to comment on a feasible time frame for implementation. Mr. Colpo said, if there is sufficient funding now, we could do it in two years. In Alaska it took about \$750,000 and five years to get the program in place, but it could have been done for somewhat less money and in a shorter time period. With sufficient funding he thought it could be implemented on the West Coast in two years. However, right now he doesn't see sufficient funding to be able to get the program implemented. Their current efforts working with industry and the states are pretty low cost. A lot of processors have taken it upon themselves to develop their own electronic systems. He is not looking to build the most sophisticated system, just to get something working, like the processors have done. With that objective, two years is a feasible time frame, if there is sufficient funding.

Mr. Alverson asked Dr. Freese about the term "frameworking." He was concerned about setting up any type of observer program for a sector of the industry and asked if it would have to go through the normal rulemaking process. He also asked if, after adoption of these bycatch rules, would any decision on application of an observer program come back to the Council. Ms. Cooney said yes, any of these programs, as they get fleshed out, would require a rulemaking process.

Mr. Anderson asked Dr. Dahl about the process with respect to the relationship between the amendment language for Amendment 18 and the language for Amendment 19, both of which are in a single document. He wanted clarification on whether the action under this agenda item would be only for the Amendment 18 language. Second, he asked about the Draft Bycatch Mitigation Work Plan (Agenda Item F.3.a Attachment 2). Dr. Dahl said the Work Plan explains how the tools available through the amendment could be used by the Council in future actions. Ms. Cooney followed up by saying that one aspect of the FMP amendment was to require current bycatch reduction measures. The other part of the preferred alternative was for the Council to look at sector and vessel bycatch caps; the work plan is a way of determining which of those measures are feasible to implement at the current time or at some point in the future. Mr. Anderson asked about the standing of the Work Plan if the Council takes action on the FMP amendment. Dr. Dahl said it is a bit ambiguous; we don't have a formal process for how the Council would finalize it. He suggested the Council had the discretion to use the same type of process as used for an FMP amendment to finalize the Work Plan. It would then stand as a statement as to how the Council plans to implement the tools described in the FMP. Mr. Anderson said he is comfortable with moving forward on the amendment, but wanted to be clear that the work plan is a separate item under a separate action. There was agreement on his interpretation.

Ms. Vojkovich said there was not an EC report about Amendment 18 and asked about some of the operational definitions of gear types and other items. She asked whether these definitions were put together with EC advice or were standard definitions from some federal document. Dr. Dahl said that Amendment 18 also reorganizes some of the material in the FMP and updates the FMP by, for example, dropping sections that are no longer applicable. The majority of the information regarding gear definitions is already in the FMP and is being brought forward unchanged, with perhaps some editing.

Ms. Vojkovich asked whether the definition of bottom contact gear is a new definition incorporated under Amendment 19. Dr. Dahl said it is a new definition but best addressed under the next agenda item, which has to do with Amendment 19. There would then be an opportunity for the Council to provide guidance on that definition.

Dr. Freese, in response to Mr. Anderson's comments, stressed that the Bycatch Work Plan is a planning document. NMFS will be completing a practicability analysis for the November Council meeting, covering bycatch issues. Therefore, it might be advisable to delay further consideration of this document (Agenda Item F.3.a, Attachment 2) until NMFS comes back with that report.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 10) to modify Draft Amendment 18 (Agenda Item F.3.a, Attachment 1--bycatch) as follows: On page 6, Objective 9, restore the struck-out first sentence and amend it to add "in accordance with conservation goals" after the parentheses; on page 26, amend the fourth paragraph by striking "the GMT's report" and inserting "comments from its advisory bodies"; and include the language changes in section 6.4.1.1 as identified in Agenda Item F.3.b, Supplemental GMT Report.

Mr. Moore said the proposed change to objective 9 moved the Council away from the intent of National Standard 1 and the National Standards Guidelines. That was the purpose of his proposal to restore the struck out sentence under objective 9 with addition of the phrase "in accordance with conservation goals." The part of the motion relevant to page 26 is just housekeeping. The third part (GMT's recommendations for section 6.4.1.1) is self explanatory. The GMT gave us evidence as to why the changes need to be made to that particular section and the GAP fully agreed with them.

Dr. Burke asked why the sentence under Objective 9 was deleted in the first place. Dr. Dahl said the intent was to update this objective based on what was in the Council's groundfish strategic plan. Dr. Burke followed up by asking if the intent was to make it more consistent with National Standard 1. Dr. Dahl said yes, that was the intent.

Mr. Anderson requested a friendly amendment relating the proposal for the change on page 26 so it would read "the GMT's reports, and comments from its advisory bodies." Both the maker and the seconder agreed.

Mr. Anderson said the restored first sentence under objective 9 (page 6 of the amendment) and the second sentence did not fit together very well. They should be stand-alone objectives.

Mr. Moore said he agreed with Mr. Anderson, and said he would accept the two sentences being broken up as objective 9 and (a new) objective 10. Both the maker and seconder agreed to Mr. Anderson's proposal.

Dr. Dahl then suggested moving the first sentence under objective 9 (previously struck out) to become the second sentence of objective 2.

Mr. Moore did not agree with Dr. Dahl's suggestion.

Mr. Anderson suggested moving the second sentence in objective 9 (now proposed as objective 10) to be the second sentence under objective #2.

Mr. Moore said he agreed with Mr. Anderson's proposal as did the seconder.

Motion 10 passed.

Dr. Dahl said he heard Dr. Freese suggest that further action on the Bycatch Mitigation Program Work Plan would be delayed until NMFS comes back with their report on bycatch practicability.

Mr. Anderson said there was a suggestion from the GMT to look at and consider pilot programs for the 2007/2008 management cycle that would have individual vessel bycatch caps. He directed the state representatives on the GMT to give that some thought, and if they had likely candidates for a pilot program, they should report back to the Council at the next meeting.

Ms. Vojkovich agreed with Mr. Anderson but was concerned with the workload implications and said those workload issues should be clarified.

Dr. Burke asked Dr. Freese to elaborate on the detail of the practicability study. Would it only consider practicability with respect to the federal government or all entities involved? Dr. Freese said all entities involved with managing the fisheries (states, tribes, federal) will be considered. Dr. Freese also responded affirmatively that the practicability analysis would be considered in November. Dr. Burke asked that the practicability analysis be available first before further consideration of the Work Plan.

In summing up this item, Dr. Dahl then said there was some editorial clean up and modest technical changes that need to be made and asked permission for staff to make these changes.

Mr. Moore moved and Mr. Alverson seconded a motion (Motion 11) to adopt for public review the amended version of proposed Amendment 18, with the permission given to staff to correct typos, and make editorial changes. Motion 11 passed.

#### **F.4 Amendment 19 (Essential Fish Habitat) (09/21/05; 2:40 pm)**

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

Dr. Dahl provided the agenda item overview.

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

Ms. Ashcraft provided Agenda Item F.4.b, Supplemental GMT Report. Lt. Dave Cleary provided Agenda Item F.4.b, Supplemental EC Report. Mr. Stuart Ellis provided Agenda Item F.4.b, Supplemental HC Report. Mr. Kenyon Hensel provided Agenda Item F.4.b, Supplemental GAP Report.

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

Mr. Rob Cozens, Mendonoma, Marine Life Conservancy, Manchester, California  
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Ed Johnston, fisherman, Toledo, Oregon  
Mr. Mike McCorkle, commercial fishermen, Santa Barbara, California

##### **F.4.d Council Action: Adopt FMP Text for Public Review**

Dr. Dahl reviewed the Council action. Dr. McIsaac elaborated on the review of the draft regulatory language. He said some members of the public have an expectation to see the draft regulatory language and have an opportunity to comment on it at the November meeting.

Dr. Burke asked Dr. Freese if the draft regulatory language would be published in the Federal

Register before the November meeting. Dr. Freese said he expected a proposed rule to be published around the middle of November. Dr. Burke noted that implementing VMS was a component of the action and asked Dr. Freese how and when the public would have an opportunity to comment on the VMS proposals.

Dr. Freese said there are three opportunities to comment: (1) at the November Council meeting under the VMS agenda item, (2) at the November Council meeting under the EFH agenda item, and (3) written comment on the EFH proposed rule.

Mr. Alverson asked about the status of the action taken under EFH. He noted final action occurred in June; does that mean the action has to be re-opened to include these clarifications? Dr. McIsaac said the Council action in June was a final action on a preferred alternative for the EFH EIS. The follow-up to that is to put the changes in an FMP amendment and then implement regulations to make various components of the action effective. The current action can be characterized as the implementation stage of the preferred alternative adopted in June.

Ms. Vojkovich sought to clarify an issue brought up by the GAP with respect to recreational fishing in an area in the Channel Islands and the definition of recreational gear. The intent of the June motion was to have the federal regulations mirror the existing state regulations in that same area. She would expect the federal regulations to reflect that.

Mr. Warrens moved (Motion 12) and Dr. Burke seconded a motion to amend Agenda Item F.3.a, Attachment 1, as follows:

On Page 28, in section 6.2.4, delete, “The Habitat Committee, or another committee designated by the Council,” and insert: “The Essential Fish Habitat Oversight Committee, which shall be composed of at least representation from the National Marine Fisheries Service, the Groundfish Management Team, the Groundfish Advisory Subpanel, the Enforcement Consultants, and the Habitat Committee,” and be established by the Council Operating Procedures as a standing committee. And, on page 29 – Strike the last sentence beginning with “Any such changes. . . .”

Mr. Warrens, referencing his motion made in June said he did not intend for the HC to be burdened with this responsibility; instead, he meant to establish a new standing committee that would bring issues to the attention of the Council and then the Council would direct them to take action, or be petitioned directly by members of the public.

Mr. Anderson said he objected to the way the amendatory language was written to give the committee the discretion to determine what requests from the public or agencies would be considered. He thought it would be more appropriate for the Council to have that role and then direct the committee to consider the request, if deemed appropriate. For this reason, although he supported the change to establish a new standing committee, he would also like to modify the language to make clear that the Council would decide which requests from the public or agencies would be given to the committee. He said he would support the motion with this understanding.

Mr. Warrens accepted Mr. Anderson’s suggestion as a friendly amendment. Mr. Anderson said the Council staff came up with the language here and the language in Section 6.2.4 of the amendment would need to be modified so that it would state the Council would make the assignments to the

committee, and the Council would decide what modifications and/or changes to the closed areas should be made. If that was the intent of the motion, then he supported it. Mr. Warrens suggested a change to the language in the motion to address Mr. Anderson's concerns, but other problems with the current language were identified. Mr. Warrens then requested that Dr. Dahl make changes to this section of the amendment consistent with the intent of the motion as discussed here and asked if he understood the concerns.

Dr. Dahl said he understood the concerns and could draft appropriate language.

Dr. Hanson suggested that the motion be withdrawn, and the Council take a short break to redraft the language and then come back to vote on it. The Council did so.

**Motion 12 was withdrawn, and it was not voted on.**

Motion 13 was moved by Frank Warrens and seconded by Patty Burke:

#### 6.2.4 The Habitat Conservation Framework

In order to protect EFH from the adverse effects of fishing, the Council has identified areas that are closed to bottom trawling (see sections 6.8 and 7.4). These areas are described in federal regulations and may be modified through the full rulemaking process as described under Section 6.2 D. The Council shall establish an EFH Oversight Committee. At the request of the Council, the EFH OC would review the areas currently closed to bottom trawling and recommend to the Council the elimination of existing areas or the addition of new areas, or modification of the extent and location of existing areas. In making its recommendation . . .

Mr. Anderson asked if this motion also included deleting the last sentence in this section as proposed in the previous, withdrawn motion. Mr. Warrens said yes. Mr. Anderson emphasized that this motion does not change the intent of the Council action in June but merely clarifies it. Mr. Moore asked about the description of the various representatives on the Committee in the previous, withdrawn motion. He asked if the composition of the committee would be specified when, at a later time, the COPs are amended to establish this committee. Mr. Warrens said yes. Dr. Burke noted that the withdrawn motion also authorized the committee to consider HAPCs or other protective measures and the current motion as worded creates a committee that will only look at the designation of areas but not regulatory actions associated with those areas. Mr. Anderson clarified how the section would read as changed by the motion, and asked if that addressed Dr. Burke's concern. She said yes.

Motion 13 passed.

Mr. Warrens moved and Dr. Burke seconded a motion (Motion 14) to replace "HC" with "EFH Oversight Committee" in bullets 3 and 4 on page 68 (Section 7.3.2). Motion 14 passed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 15): Adopt the FMP text as amended by Motions 12 and 13 for public review with the following additions: include recommendations 2 and 3 of the HC as found in Agenda Item F.4.b, Supplemental HC Report, and the three recommendations of the GMT as found in Agenda Item F.4.b, Supplemental GMT Report; and recommendation #3 from the GAP, relative to recreational fishing gear, as found in Agenda Item F.4.b, Supplemental GAP Report.

Mr. Moore asked for a friendly amendment with two purposes: first to also include recommendation #2 from the GAP report and second, direct Council staff to review the operational definition of bottom contact gear in the amendment and make sure it is consistent with other definitions of bottom contact gear. Maker and seconder agreed.

Ms. Vojkovich asked about GAP recommendation #3, recreational fishing gear. The intent was to make the regulations in the federal waters the same as the state waters in those areas. The key point is that spears are allowed under state regulations and would therefore be allowed under the federal regulations. She then asked about GAP recommendation #2 and whether it was added to the motion. Mr. Anderson said that GAP recommendation #2 was added as a friendly amendment.

Mr. Anderson, referring to the recreational fishing gear, is there a problem? Ms. Vojkovich said she only wanted to make clear the disposition of spear as recreational gear under the draft regulations.

Ms. Cooney said, regarding GAP recommendation #3, which is a comment on the regulations, keep in mind that these regulations might be changed before the next meeting in response to these comments. As a comment on regulations, it is a recommendation to NMFS. Mr. Anderson said that is understood.

Motion 15 passed.

Dr. McIsaac asked whether the motion included putting out the draft regulations for public review. Mr. Anderson said no. Dr. McIsaac asked the Council whether they wanted to do that. Mr. Moore said he understood the Council was being afforded an opportunity to look at the initial regulatory language and comment on it to NMFS, and there would be further discussions with the EC on some aspects of the exact language. Another revised draft could be available to the Council in November. After the November Council meeting it would be published as a proposed rule and be available for public review. For that reason he didn't see the need to send it out to the public in its current form.

Dr. McIsaac said Mr. Moore described the typical arrangement. This other alternative was designed to facilitate public comment during the Council process as well. Mr. Moore said he didn't think a Council motion was necessary, given the draft document before us now. He said he didn't want to limit the opportunity for comment but questioned the need for a motion. Mr. Hansen asked what the Council wanted to do. Dr. Freese said the process Mr. Moore described is one NFMS is contemplating. He asked if there would be any added benefit to putting something out now that would be further changed. It might result in confusion if multiple drafts are available to the public. Mr. Anderson said the Council should wait until the next draft is available. Dr. McIsaac asked when the next draft would be available. Dr. Freese said the next draft will probably not make the briefing book deadline, but would be available for the first day of the November Council meeting.

Ms. Vojkovich said she wanted to make sure we have the EC at the GMT meeting in October so they can work together on this issue.

Mr. Anderson asked if we gave staff flexibility to make editorial changes. The Chair said yes and Dr. Dahl said he assumed this instruction was covered by the authorization under the previous agenda item.

## **F.5 Final Consideration of Inseason Adjustments, If Necessary (09/21/05; 4:39 pm)**

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

Mr. DeVore provided the agenda item overview.  
Minutes - September 2005 (180<sup>th</sup> Council Meeting)

### **F.5.b Report of the GMT**

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

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

None.

### **F.5.d Public Comment**

Mr. Ed Johnston, fisherman, Toledo, Oregon

### **F.5.e Council Action: If Necessary, Adopt or Confirm Final Inseason Adjustments for the 2005 Groundfish Fishery**

Mr. DeVore said no further Council action is needed unless there are errors in the bycatch scorecard or trip limit tables.

Ms. Vojkovich said that on the scorecard (under EFP, page 14, flatfish trawl), there is a line indicating the predicted take of overfished species under nearshore California flatfish trawl EFP. The state of California will not be conducting this EFP, so those reserved amounts could be removed and put into reserve. Ms. Vojkovich also announced that as part of the CDFG inseason action, the commercial cabezon fishery will be closed at 00:01 on October 1. CDFG has projected that the commercial allocation for cabezon will have been taken by that date.

## **F.6 Process and Schedule for 2007-2008 Biennial Management Specifications Adoption (09/21/05; 9:56 am)**

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

Mr. DeVore provided the agenda item overview and reviewed the proposed process and schedule for developing the 2007-2008 harvest specifications and management measures (Agenda Item F.6.a, Attachment 1).

### **F.6.b Reports and Comments of Advisory Bodies**

#### **GMT Report**

Ms. Ashcraft provided Agenda Item F.6.b, Supplemental GMT Report.

Mr. Moore asked if the GMT intended to analyze sector allocations according to Attachment 1 of the GMT report absent Council guidance. Ms. Ashcraft said no, the Council or the Allocation Committee needs to provide guidance. The list of sectors in Attachment 1 of the GMT report was from the Amendment 18 implementation work plan. Mr. Moore asked if the Council does not ultimately recommend sector bycatch caps, then the GMT intends to do no work on this and Ms. Ashcraft answered yes. Mr. Alverson noted the only sectors with real-time observer monitoring are the at-sea whiting sectors. If the Council does not decide sector bycatch caps, is this a fatal flaw? Ms. Cooney said no. There will be internal NMFS discussion regarding the practicability of bycatch caps.

#### **GAP Report**

Mr. Gerry Richter provided Agenda Item F.6.b, Supplemental GAP Report.

### **F.6.c Public Comment**

Mr. Ed Johnston, fisherman, Toledo, Oregon

### **F.6.d Council Action: Adopt the Process and Schedule for Consideration of 2007-2008 Groundfish Fishery Management Specifications**

Dr. Burke noted the proposed schedule conflicts with the salmon decision-making schedule as well as staff time dedicated to managing fisheries under state jurisdiction. We have nine public meetings between now and December in Oregon, and we have a committed community of people who want to provide input. This schedule is not feasible from the state of Oregon's perspective.

Ms. Vojkovich asked what happens if new regulations are not in place by January 1? Ms. Cooney said the old regulations would remain in place. If trip limits are too high, this could compromise fishing opportunities during the rest of the year. Dr. Freese asked if old period 6 regulations apply for period 1 of the new year in this case or the old period 1 regulations. Ms. Cooney said the old period 1 regulations would apply.

Mr. Anderson understands that the NPFMC has a similar process where the old January-February regulations are implemented for the first two months of the new year. This works if the OYs don't change dramatically. He is interested in exploring options other than the proposed process and schedule for all the reasons stated by Dr. Burke. Therefore, he wants the GMT to analyze different period 1 regulations for the start of 2006 that could also be implemented at the start of 2007 if needed. Mr. DeVore said the GMT could analyze and recommend different period 1 regulations for 2006, which would serve as default regulations for period 1 in 2007, as part of the inseason actions at the next Council meeting in November.

Dr. Freese said NMFS and NOAA General Counsel would like to explore the possibility of waiving the 30-day APA cooling off period for rulemaking. This may relax the schedule enough to allow the Council to decide a final preferred alternative next June without compromising EIS development.

Ms. Vojkovich explained California recreational measures are much more complex than those in Washington, for example. Also the California Fish and Game Commission schedule is not synchronous with the Council's schedule. The Commission schedule can't conform to get a final preferred alternative in April. Ms. Cooney asked if the main state concern regarding a final decision in April or June is the time needed for state public meetings. Mr. Anderson said there is an obligation to engage constituents for both salmon and groundfish decision-making. Washington also needs time to consult tribal co-managers. The overlap in these two processes is untenable with an April decision. Ms. Cooney asked if the April to June timeframe is needed for deciding groundfish management measures and Mr. Anderson and Dr. Burke responded yes. Ms. Vojkovich said California may be able to derive preferred recreational management measures with the requisite analysis by March 15, 2006. Dr. Freese asked if the goal was to have a final preferred alternative decided in June and the state Council representatives responded yes.

Mr. Moore asked if the GMT was planning to evaluate period 1 2006 inseason adjustments in November and Ms. Ashcraft said yes. The GMT was also going to consider reduced petrale sole trip limits then as well. Mr. Moore recommended the GMT also consider period 1 2007 management measures when designing period 1 2006 measures.

Mr. Anderson said we need to resolve the schedule today. He would like the Council to consider using period 1 2006 management measures as a fallback only for starting the 2007 season.

Chairman Hanson asked for this item to be tabled.

**F.6.d revisited: 09/22/05; 4:05 pm**

Ms. Ashcraft explained the GMT strongly recommends having new implementing regulations by January 1, 2007. The GMT will consider period 1 2006 management measures as a default for period 1 in 2007. The GMT recommends monthly management measures for period 1 in 2006 with more conservative measures for January 2006. This will provide more management flexibility in 2007 and avoid the early petrale sole OY attainment problem observed this year. Mr. Moore asked if the GMT, GAP, and Council will consider this as an inseason action in November and Ms. Ashcraft said yes.

Ms. Cooney said NOAA General Counsel is still recommending the Council decide a final preferred alternative in April with some minor refinement in June. If the Council can't decide a preferred alternative in April and/or there is a major change in June, then she recommends NMFS waive the 30-day APA cooling off period. This is a better process than planning to use period 1 2006 management measures as a default for 2007. Dr. McIsaac characterized the process as, "adopt a range of refined management measures and, if possible, adopt a tentative preferred alternative in April". State constituent meetings can go beyond December 31 to accomplish this objective. Mr. Moore asked about making progress at the March meeting and Dr. McIsaac suggested the Council could refine measures recommended by the Allocation Committee then, but reserve the April meeting for major action.

Mr. Anderson thought the workload may be largely predicated on the canary rockfish assessment result. Much of the task will be defined by the recommendations of the mop-up STAR panel regarding the canary assessment and rebuilding analyses.

Ms. Vojkovich asked about the objectives of the two Allocation Committee meetings in November and early next year. Dr. McIsaac explained the objective would be to decide species' allocation alternatives for analysis and refinement of the range of other management measure alternatives decided by the Council in November.

Mr. Anderson asked if the GMT and Council staff needed more guidance on sector catch limits. Mr. DeVore thought the GMT had guidance from the Amendment 18 implementation work plan and a motion was not necessary. The Council discussion provided enough guidance for most of the process and schedule. Chairman Hansen and Dr. Hanson, the Council's parliamentarian, agreed.

**F.7 Rebuilding Plan Revision Policy**

**F.7.a Agenda Item Overview (09/22/05; 1:12 pm)**

Mr. DeVore provided the agenda item overview.

**F.7.b Scientific and Statistical Committee (SSC) Report**

Dr. Kevin Hill provided Agenda Item F.7.b, Supplemental SSC Report.

Mr. Moore asked if the SSC had read the GMT's report on this item and Dr. Hill said no.

**F.7.c Reports and Comments of Advisory Bodies**

**GMT Report**

Dr. John Field provided Agenda Item F.7.c, Supplemental GMT Report.

Mr. Moore complimented the GMT on the quality of their report. He asked for clarification on what to do in the case when  $P_{TARGET}$  (the probability of successful rebuilding by the target rebuilding year) is less than 45%. Dr. Field explained this is a gray area, representing a case when rebuilding is not progressing adequately. The GMT recommends the Council should resolve a management/policy response on a case-specific basis in this circumstance.

## **GAP Report**

Mr. Gerry Richter provided Agenda Item F.7.c, Supplemental GAP Report.

Mr. Moore stated the GAP agrees with GMT alternative 5. Does the GAP agree with the second GMT recommendation to suspend revision rules at the end of the rebuilding period? Mr. Richter said yes.

### **F.7.d Public Comment**

Mr. Tony DeFalco, presenting the comments of Karen Garrison, NRDC, San Francisco, California

### **F.7.e Council Action: Adopt Final Policy**

Mr. Moore moved and Dr. Burke seconded a motion, (Motion 17) to adopt Alternative #5 as a stated policy for responding to new building analyses, while maintaining the flexibility to consider alternative rebuilding strategies on a case-specific basis as recommended in Agenda Item F.7.c, Supplemental GMT Report.

Mr. Moore explained this is a general policy where decisions can be made on a case-specific basis. There is scientific evidence supporting a rebuilding probability of about 80% resulting in the shortest rebuilding periods without frequent changes resulting from assessment uncertainty or “noise”. This policy is responsive to the Ninth Circuit Court of Appeals ruling on the darkblotched rebuilding plan as well as the proposed rule revising the National Standard 1 guidelines. Ms. Cooney commented that NMFS and NOAA General Counsel will be sorting out a response to the darkblotched lawsuit and coming back to the Council in November with guidance on the 2007-2008 specifications and management measures process as well as this policy. Mr. Moore agreed that would be appropriate, but the Council also needs to meet other deadlines.

Mr. Anderson said he supported of motion because the Council needs to have a policy to respond to new assessments and decide biennial harvest specifications.

Dr. McIsaac asked if it was Mr. Moore’s intent to incorporate this policy as a Council Operating Procedure (COP) and Mr. Moore said he would defer to the wishes of the Council. Ms. Cooney recommended waiting to formalize this policy in a COP until they could provide guidance to the Council in November.

Motion 17 passed.

## **F.8 Stock Assessments for 2007-2008 Groundfish Fisheries (09/22/05; 1:49 pm)**

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

Mr. DeVore provided the agenda item overview.

## **F.8.b SSC Report**

Dr. Hill provided Agenda Item F.8.b, Supplemental SSC Report.

Dr. Hill highlighted the SSC's recommendations to not approve the vermilion rockfish assessment, to use only the portion of the kelp greenling assessment concerning the Oregon substock, and approve all the other assessments except those for petrale sole, canary rockfish, and lingcod since they will be further reviewed at the mop-up STAR panel.

Mr. Moore noted the absence of STAR panel reports for the yelloweye and yellowtail rockfish assessment reviews. Is the SSC recommending deferring adoption of these assessments pending delivery of the reports? Dr. Hill said the STAR chair for these assessment reviews was present at the SSC meeting and provided the STAR panel recommendations in an oral report to the SSC. The SSC is recommending adoption of these two assessments on that basis.

Mr. Moore asked if the SSC is waiting for the southern petrale sole assessment before recommending adoption of the assessment and Dr. Hill said yes.

Dr. Burke asked about the estimated survey catchability ( $q$ ) in the canary assessment. Dr. Hill explained a typical survey  $q$  for rockfish is about 0.02 and the estimated  $q$  in the canary assessment is 0.06. The SSC wants the mop-up STAR panel to further explore the  $q$  sensitivity question for canary. Dr. Burke asked if there was time to do this at the mop-up panel and Dr. Hill said he wasn't sure. The SSC has already contacted Dr. Richard Methot, the assessment author, who will be available to explore the assessment at the mop-up STAR panel meeting next week. Mr. Anderson asked if the Santa Cruz juvenile survey was considered by Dr. Methot for use in the canary assessment. Dr. Hill said the survey was considered by Dr. Methot, but not by the original STAR panel. Alternative model runs using the Santa Cruz survey index were not provided. Mr. Anderson asked, in the event additional canary model runs are not provided at next week's mop-up STAR panel, what would the SSC recommend as the scientific basis for managing canary rockfish in 2007-2008? Dr. Hill said the SSC is not recommending the current assessment without these additional runs. Mr. Anderson noted the protocol is to have the completed post-STAR assessment provided two week's in advance of the SSC's November meeting and Dr. Hill said next week's STAR panel review may have to suffice.

Mr. Alverson asked how steepness ( $h$ ) is derived in the canary assessment and Dr. Hill explained it is estimated by the model. Mr. Alverson asked if more age data would help and Dr. Hill said that would presumably help. Mr. Alverson asked if the CPUE index in the canary assessment uses new observer data and Dr. Hill said he didn't know.

Ms. Vojkovich asked if the SSC recommends the vermilion assessment for management decision-making and Dr. Hill explained it might be useful for determining the stock's relative depletion rate, but not for setting an OY. Ms. Vojkovich asked if all the other assessments can be used to set OYs and Dr. Hill said yes, except for vermilion rockfish and kelp greenling.

Mr. Anderson pointed out the discrepancy brought up in the GMT's report in September 2004 regarding the estimated total catch of canary. Could this effect a change in the assessment result? Dr. Hill presumed so. Mr. Anderson recommended this be brought to Dr. Methot's attention and Mr. DeVore said he will do that. Dr. McIsaac asked Dr. Hill if he thought the canary rockfish stock should respond like the other *Sebastes* stocks, which experienced recent increases in recruitment? Dr. Hill said yes- there is a correlation between the Santa Cruz survey results and *Sebastes* spawning abundance. The Santa Cruz survey has indicated a general increase in *Sebastes* abundance in recent years.

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

None.

### **F.8.d Public Comment**

Mr. Scott Hartzell, sablefish fisherman, Florence, Oregon

Mr. Kelly Barnett, fish filleter, Bay City, Oregon

Mr. Ed Johnston, fisherman, Toledo, Oregon

### **F.8.e Council Action: Approve Stock Assessments for 2007-2008 Groundfish Fisheries**

Mr. Moore asked Dr. Hill about Scott Hartzell's testimony regarding the discrepancy between his sablefish landings and those used in the assessment. Should the Council adopt the new sablefish assessment given this discrepancy? Dr. Hill, said his personal opinion is accurate catch data is critical in an assessment. However, he was not sure there was adequate time to update the assessment with new/corrected catch data and schedule a scientific review by the SSC. Dr. Freese asked Dr. Hastie to speak on this issue. Dr. Hastie explained that Scott was referring to fish ticket data to characterize the fishery, but the quantitative data used in the assessment are size/age distributions and total removals. He recommended the state of Oregon should investigate landings discrepancies, but landings are not used in the assessment. Mr. Moore asked if differential landings would not affect the assessment result and Dr. Hastie explained it would affect the estimate of total removals, but not the size or age distribution of the population. The results could shift if the magnitude of discrepancies is large. Dr. Burke asked if it was possible to apply a conversion factor to correct deficiencies in the assessment and Dr. Hastie responded no such conversion factors exist in the SS2 modeling framework. Mr. Alverson asked how it was possible that large landings of large sablefish earlier in the catch history not result in a conclusion there were large year classes prior to 1999. Dr. Hastie said he did not know, but there is a lot of effort to obtain good age information and otolith sample sizes to more accurately estimate recruitment. Mr. Alverson countered that otolith collection is compromised by heading and gutting sablefish at sea and recommended on-board samplers should collect otoliths at sea. Dr. Hastie agreed that would improve sablefish ageing and accuracy of age data and NMFS will investigate this issue further.

Mr. Moore asked about the legal implications of the widow rockfish assessment result implying the stock was never overfished. What is the NMFS policy in this case? Dr. Freese said there is no existing policy. He recommended the Council draft a letter to NMFS asking for a policy call on cases such as widow, whiting, and petrale sole. Ms. Cooney agreed a letter laying out the facts would focus the discussions.

Mr. Anderson moved (Motion 18) the Council approve the stock assessments recommended by the SSC as providing the best available science as indicated in Agenda Item F.8.b, Supplemental SSC Report for use in 2007-2008 groundfish fisheries management decision-making. Mr. Cedergreen seconded the motion.

Mr. Anderson said the motion includes all the recommendations of the SSC.

Mr. Moore moved an amendment to Motion 18 to drop sablefish from the list of stock assessments for approval with the intent that additional work on sablefish be done to correct any potential catch discrepancies and brought to the Council at the November meeting. Mr. Warrens seconded the amendment to motion 18.

Mr. Moore believes additional work would have been requested by the STAR panel if data discrepancies were revealed then. He requests the NWFSC or SSC double-check these data. Ms. Vojkovich thought the sablefish catch data issue was to be resolved by Oregon and Dr. Burke said they will  
37 of 47  
Minutes - September 2005 (180<sup>th</sup> Council Meeting)

investigate both PacFIN landings and sampling data.

Mr. Alverson said he was not sure the amendment is the right vehicle to accomplish what needs to be done. He thought the Council could adopt the assessment now and still investigate catch data discrepancies. He did not agree with challenging the assessment or the process at this time. Dr. Freese asked Dr. Clarke on how they could respond to the amendment if passed. Dr. Clarke said they could have Dr. Schirripa, the sablefish assessment author, investigate the catch data in coordination with ODFW. She was unsure of how this process would work in time for the November Council meeting given Dr. Schirripa's schedule and the lack of a scheduled STAR panel. Dr. Hill concurred and added next week's mop-up STAR panel is fully booked and he was not sure corrected landings in the assessment would require STAR panel review. He recommended Council adoption of the assessment now, even if landings data are to be corrected.

Mr. Moore said it was not his intent to have the entire assessment reviewed again in a STAR panel. He just wanted to investigate a potential data error. Mr. Moore then withdrew his amendment to the motion.

Mr. Anderson recommended the NWFSC contact Dr. Schirripa and request he investigate these landings discrepancies. Any necessary correction can then be made to the assessment and reviewed by the SSC Groundfish Subcommittee before being used in the management decision-making.

Ms. Vojkovich asked if these assessments would be used to set OYs and Mr. DeVore answered yes, for those assessments recommended by the SSC for setting OYs. She then said she was not supportive of the motion because the state of California may not want to set a separate OY for California scorpionfish. Mr. Anderson said the Council can decide later how to manage fisheries using these assessments.

Dr. Burke sought clarification of the SSC recommendations relative to the kelp greenling and vermilion rockfish assessments. These assessments should not be used for setting OYs? Dr. Hill said that was true for the vermilion assessment and the California substock in the kelp greenling assessment. However, the kelp greenling assessment can be used to set OYs for the Oregon substock. Dr. Burke said Oregon has a separate harvest cap for kelp greenling which is more conservative. She wanted some assurance that ODFW could continue with status quo management for kelp greenling. Mr. DeVore explained the Oregon substock of kelp greenling resides solely in state waters and only affects fisheries under state jurisdiction. Oregon is free to manage these fisheries more conservatively.

Chairman Hanson asked for decision on Motion 18. Motion 18 passed.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 19) to have the Council send a letter to NMFS to resolve policy on whether widow rockfish should be managed under a rebuilding plan given the retrospective analysis indicating the stock was never overfished.

Mr. Anderson urged the Council to step back and consider the larger implications of this request. The FMP requires the widow rockfish stock to be managed to rebuild the stock to the target biomass. He would like to understand any existing policy NMFS might have to cover this situation, but he doesn't want NMFS to invent a policy. Mr. Moore said his motion is not intended to get more fish. Two species on the West Coast have been declared overfished only to have subsequent analyses indicate they never were overfished. This is a legal problem we need to resolve during this era of intense litigation. A Council letter is the best vehicle for understanding policy. Dr. Burke spoke against the motion because the question can cut both ways. One would need to also ask such questions for assessments just above B25%, the overfished threshold. This could get us into a legal quagmire.

Dr. Freese asked Dr. Field, a co-author on the widow assessment, to speak to the quality of the assessment. Dr. Field stated the widow state of nature has not essentially changed with this new assessment. Unfortunately, the point estimates of biomass in this and previous widow assessments straddled the B25% threshold.

Mr. Moore said it is important to understand the legal implications of such assessments; however, sensing the reluctance of the Council to pursue this, he withdrew Motion 19.

## **F.9 Management Specifications for Spiny Dogfish and Pacific Cod for 2006 (09/23/05; 8:05 am)**

### **F.9.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview.

### **F.9.b Reports and Comments of Advisory Bodies**

#### **GMT Report**

Ms. Ashcraft provided Exhibit F.9.b, Supplemental GMT Report.

Mr. Moore asked if the proposed spiny dogfish limits are the same for all commercial gears and Ms. Ashcraft said yes. Mr. Moore asked if the period 5 limited entry trawl trip limits for Pacific cod were the only difference between alternatives 2 and 3 and Ms. Ashcraft answered yes.

#### **GAP Report**

Mr. Tommy Ghio provided Exhibit F.9.b, Supplemental GAP Report.

### **F.9.c Public Comment**

Mr. Michael Deach, F/V Bernice, Lopez, Washington

### **F.9.d Council Action: Adopt 2006 Harvest Specifications (Optimum Yield and Acceptable Biological Catch) and Management Measures for Public Review**

Mr. Anderson noted that these species are important to the tribes and to the states of Washington and Oregon. Spiny dogfish didn't get much attention until May of this year, when Washington realized a proposed fishery by a factory longliner targeting dogfish under the open access limits could lead to problems related to bycatch of overfished species. Mr. Anderson made the following motion:

Motion 20: Adopt the recommendations of the GMT (Supplemental GMT Report, Exhibit F.9.b) for spiny dogfish and Pacific cod for public review. The motion was seconded by Rod Moore.

Ms. Vojkovich noted that people had done a lot of work on this matter, but said that if the Council had taken more action on open access fisheries, it would not have to deal with this. Ms. Vojkovich expressed support for closing open access and finding time to work on open access issues.

Mr. Harp noted that there is a small tribal fishery on the north Washington coast. The Makah tribe will work with NMFS to develop appropriate trip limits for the tribal fishery and will come back to the Council with those in November.

Motion 20 passed.

## **G. Salmon Management**

### **G.1 Klamath River Fall Chinook Conservation Objective (09/21/05; 8:01 am)**

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

Mr. Tracy presented the agenda item overview.

#### **G.1.b Report of the Salmon Technical Team**

Mr. Dell Simmons presented a summary of Agenda Item G.1.b, STT Report.

Dr. McIsaac asked if the stock/recruitment Model 3 took into account flows or just watershed area. Mr. Simmons replied only watershed area, and that such things as interbasin export of water was not considered.

Mr. Melcher asked if using Model 2 with a prediction of relatively high marine survival, would the stock be able to withstand a corresponding increase in fishing mortality. Mr. Simmons replied yes, but only during the period of high marine survival, as opposed to Model 1, which assumes constant average marine survival.

Mr. Ortmann asked if Model 2 was more of a planning tool as opposed to Models 1 and 3, which would be better for explaining past stock dynamics. Mr. Simmons replied that Model 3 was more dissimilar than Models 1 and 2, and should be considered separately, and with less certainty. Model 2 was probably the preferred model by most of the STT because it corrected some of the bias in Model 1. Model 2 has been used for Columbia River, Washington, and Alaskan stocks.

Dr. McIsaac asked if the marine survival variable used in Model 2 would mask any compensatory survival effects in the estuary. Mr. Simmons replied that it could, but that the assumption was that Klamath River fall Chinook did not congregate in the estuary long enough to induce compensatory effects.

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

Mr. Simmons presented Agenda Item G.1.c, Supplemental STT Report.

Dr. Dygert asked if the flow variable used to investigate the relationship between flow and juvenile outmigrants was adequate to characterize water quality factors. Mr. Simmons replied the only data available to develop a statistical relationship were flow data; other variables such as water temperature and dissolved oxygen had inadequate data available.

Mr. Ticehurst asked if the toxic conditions associated with an algae bloom in the upper basin were considered in the STT analyses. Mr. Simmons replied no, that the analyses used historical data and not current conditions.

Mr. Roth asked if hatchery juveniles used as a surrogate for naturally produced fish would adequately represent conditions experienced by fish spawned and reared in the river. Mr. Simmons replied hatchery juveniles were likely not good surrogates, especially for representing factors affecting such things as overwintering survival. Mr. Melcher noted the analysis based on residuals from the 40 of 47 Minutes - September 2005 (180<sup>th</sup> Council Meeting)

spawner/recruit relationship would better represent naturally produced juvenile survival.

Mr. Melcher asked if the hydropower regulated environment provided an adequate range of flows to assess the effects of flow on juvenile survival. Mr. Grover replied probably not, that the natural flow regime was flattened considerably and likely reduced the ability of the model to characterize the relationship.

Mr. Tracy asked if the STT conclusion that there was not sufficient new information to warrant any changes in the current FMP objective was because a longer data set was required or if the data used in the analysis was not appropriate to adequately describe Klamath Basin population dynamics. Mr. Simmons replied that the STT did not have the type of data best suited to analyzing the Klamath Basin, which would include a long time series of natural juvenile outmigrant abundance estimates and adult returns in the Klamath and Trinity systems separately. Genetic sampling may be required to separate the stocks in the lower river.

Dr. Dygert asked if the STT recommendation was to maintain the current conservation objective. Mr. Simmons replied the STT attempted to answer two questions: 1) was there any flaw in the 33-34% adult escapement objective, and 2) was there sufficient data of the appropriate type to change the conservation objective to an MSY escapement objective. The answer to both questions was no.

Mr. Don Stevens provided Agenda Item G.1.c, Supplemental SAS Report.

Mr. Ellis provided Agenda Item G.1.c, Supplemental HC Report.

Mr. George Kautsky, Hoopa Valley Tribe presented Agenda Item G.1.d, supplemental Public Comment. He noted the STT stock/recruitment analysis included only three points with stock sizes over 100,000. He also stated the Hoopa Valley Tribe felt there was sufficient flexibility in the existing management process and that an FMP amendment was unnecessary.

Mr. Harp asked if the Hoopa Valley Tribe would consider addressing some of the sampling issues mentioned by the STT, including juvenile monitoring and genetic stock identification. Mr. Kautsky replied the Hoopa Valley Tribe has an ongoing juvenile monitoring program that includes abundance estimates in the Trinity system. The Yurok Tribe is working in the Klamath Basin. The separation of stocks using genetic information would be useful, and the tribes would support funding proposals through Pacific States Marine Fisheries Commission.

#### **G.1.d Public Comment**

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

Mr. Duncan MacLean, troller, El Granada, California

Mr. Dave Bitts, PCFFA, McKinleyville, California

Ms. Cooney noted the discretion to implement emergency rules was not lost in the 1996 reauthorization of the Magnuson-Stevens Act. Dr. Dygert noted the language in the Salmon Fishery Management Plan provides a process for implementing emergency regulations.

#### **G.1.e Council Guidance on Further Consideration of Amending the Conservation Objective**

Mr. Melcher noted the Klamath Fishery Management Council (KFMC) will meet October 18 in Klamath Falls, Oregon and has directed the KRTAT to review the STT report. He recommended deferring a decision on initiating an FMP amendment until after the KFMC has a chance to meet and the

SSC has reviewed the STT analysis. The emergency flexibility issue also should also be clarified. The issue should be put on the November 2005 Council agenda for consideration at that time.

Mr. Harp agreed with Mr. Melcher's comments. He requested the SSC salmon subcommittee review the STT Report at the Methodology Review meeting and bring their comments to the November Council meeting. He noted the KFMC will bring a report to the next PFMC meeting.

Dr. Dygert concurred with Mr. Melcher and Mr. Harp, and requested the KFMC provide some feedback on both substance and criteria for adding language to the FMP allowing flexibility around the Klamath River fall Chinook conservation objective.

Mr. Ticehurst felt disease effects should be incorporated into the stock/recruitment analyses. Mr. Ortmann recommended beginning that process by following up on Mr. Bitts' suggestion to have the Council briefed on the *Ceratomyxa shasta* problem in the Klamath Basin.

Mr. Roth said he would make contact with USFWS fish health expert Dr. Scott Foott and request a briefing for the Council.

Mr. Anderson asked for clarification on assignments to report on the existing flexibility within the emergency rule procedure and any changes since it was last used in 1992 relative to salmon management. Dr. Dygert replied that NMFS and legal council would report to the Council at the November meeting.

## **G.2 Salmon Methodology Review**

### **G.2.a Agenda Item Overview (09/21/05; 10:05 am)**

Mr. Tracy presented the agenda item overview.

### **G.2.b Agency and Tribal Reports and Comments**

None.

### **G.2.c Model Evaluation Workgroup Report**

Mr. Simmons presented Agenda Item G.2.c, Supplemental MEW Report.

Mr. Melcher asked how the proposed Columbia River ocean abundance estimates will interface with the Pacific Salmon Commission (PSC) process. Mr. Simmons replied the PSC Chinook model uses terminal run forecasts and not ocean abundance estimates, so it would continue to use the Joint Staff terminal run forecasts. Mr. Melcher asked if the PSC would require a review of the ocean abundance estimates for their process. Mr. Simmons replied the Joint Staff would continue to generate the terminal run forecasts, which the PSC would use. The PSC does not generally require approval of domestic methodology issues.

### **G.2.d Reports and Comments of Advisory Bodies**

Mr. Simmons presented Agenda Item G.2.d, Supplemental STT Report.

Mr. Roth noted additional work on the Columbia River ocean abundance forecasts will be required before they are ready for implementation, and they will also be subject to review by the Columbia River Technical Advisory Committee.

Dr. Dygert noted the KOHM will be reviewed relative to performance of the model for predicting

age-4 ocean harvest rates, which is the basis for the ESA consultation standard for California Coastal Chinook, pending results of 2005 fisheries, but prior to the 2006 season. The review of any proposed changes may not fall within the usual methodology review process. Mr. Melcher asked if NMFS anticipated changes to the KOHM or changes to the consultation standard. Dr. Dygert replied the standard would not likely change, but use of the model may, for example using a shorter time series to estimate harvest rates.

Mr. Melcher asked if changing base period data is something the STT would do without review. Mr. Simmons replied the example used would be a change of the input data, not the model structure, but if the need to modify something like the base period arose during the preseason process the STT would bring it to the attention of the Council and ask for approval.

Mr. Anderson asked when the contact rate data would be discussed by the STT. Mr. Simmons replied during the Preseason Report I meeting in early February, with a report to the Council in March if necessary.

Dr. Pete Lawson provided Agenda Item G.2.d, Supplemental SSC Report. He noted the SSC was also being asked to review the STT Klamath River fall Chinook stock-recruitment analyses, and asked the Council what questions were to be answered by the SSC review.

Dr. Dygert replied the SSC review should include review of the datasets and the mechanics of the stock-recruitment analyses, and assess its relevance to the conservation objective. Comments on the flow-recruitment analyses would also be appropriate.

Mr. Melcher agreed with Dr. Dygert's guidance, and added the use of the marine survival index in Model 2 deserves particular focus.

#### **G.2.e Public Comment**

Mr. Ed Johnston, fisherman, Toledo, Oregon

#### **G.2.f Council Action: Final Prioritization and Scheduling of the Review of Salmon Methodology Changes for the 2006 Season**

Mr. Anderson moved (Motion 9) to direct the Salmon Subcommittee of the SSC to review the four items contained in Agenda Item G.2.d, Supplemental SSC Report; and the STT's Klamath River fall Chinook stock-recruitment analyses and report back to the Council. Mr. Alverson seconded the motion. Motion 9 passed.

## **H. Marine Protected Areas**

### **H.1 Channel Islands National Marine Sanctuary (CINMS) (09/22/05; 8:04 am)**

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

Mr. Mike Burner provided the agenda item overview.

#### **H.1.b Statement of the CINMS Staff**

Mr. Sean Hastings, CINMS staff, stated the primary purpose of his attendance was to be available

to answer questions. The CINMS is appreciative of the extensive amount of time spent by the Council advisory bodies on issues related to the CINMS. The CINMS at this time is proceeding with the request to the Council to draft fishing regulations as outlined in a letter from Vice Admiral Lautenbacher. To be clear, this process does not presuppose that regulations for the federal waters of the CINMS will be promulgated under the NMSA. The CINMS appreciates that the process under the NMSA is different from the Council process. The CINMS is requesting regulations from the Council which will be included in a DEIS for analysis. If regulations under the NMSA are chosen as the preferred alternative, the proposed action could also include potential amendments to the CINMS designation document. The DEIS could be available in early 2006 for thorough public and Council review, including proposed regulations and designation document changes. The CINMS is looking to the Council for recommendations as to how to move forward under the NMSA understanding the Council's earlier recommendation that no changes be made to the CINMS designation document. We are all waiting for a NOAA determination on the use of MSA or NMSA authority with the expectation such a determination will be available in November.

Ms. Vojkovich, relative to the proposed designation document changes, asked if Mr. Hastings could speak to specify the scope of authorities proposed for the designation document. Mr. Hastings said the CINMS completed a public scoping process and provided potential language in the spring of 2005. The language proposed CINMS authority to regulate fisheries in discreet zones which is effectively an acknowledgement that there is no intent to regulate waters throughout the sanctuary. Additionally, the changes would build on the process that was started in 1999 and is limited to areas discussed through that process.

Mr. Moore asked if there was a timeline anticipated for release of the DEIS itself rather than the supporting materials the Council has been provided. Mr. Hastings said if we are to proceed with regulations under the NMSA, the CINMS would be looking for the Council response following the November Council meeting. Following Council response the CINMS would complete the document and submit it for internal review with an anticipated release sometime in the spring of 2006 with the required public review periods and public meetings. The document will likely be released with the Council meeting schedule in mind. Mr. Moore asked if the decision is made to move forward with fishing regulations under the NMSA, would the DEIS also include the necessary changes to the CINMS designation document. Mr. Hastings said it would include a draft proposed rule and any draft amendment language to the designation document. He reiterated that these would be draft and not final until publication of the final rule.

Dr. McIsaac asked about a forthcoming technical analysis in the DEIS. He stated the Council has been concerned about not having the same information available as will be made available to other decision makers when the full DEIS is complete. He noted the response letter from Mr. Basta (H.1.a Attachment 4) says "we believe the analyses and information provided so far are fully sufficient to support the Council's deliberations." Dr. McIsaac asked Mr. Hastings if additional technical analysis of potential fishing regulations will be made available after the Council considers the matter. Mr. Hastings stated CINMS is required to provide the Council with its goals and objectives and the available information on ecological and economical impact. This information has been provided to the Council in the supporting materials. The DEIS will have more data available on the ecological and economical parameters. The Council has everything that the CINMS currently has. The DEIS will have to meet many legal requirements and will therefore contain more detail. Dr. McIsaac asked if there will be new technical analysis of the impacts of fishing regulations after today that the Sanctuary will consider but the Council won't be able to. Mr. Hastings replied, "No."

Ms. Vojkovich asked about public comment opportunities outside of the Council process leading

up to the final rule. Mr. Hastings said that for drafting fishing regulations the public process is entirely within the Council process but, for the entire process, the CINMS has the Sanctuary Advisory Council, a local public venue to provide access to schedules and information which meets every other month. Additionally, if the DEIS is released, there will be appropriate public scoping periods and hearings and the release will be timed to coincide with Sanctuary Advisory Council and Council meetings. The Sanctuary Advisory Council is very interested in this Council and has been tracking the groundfish EFH process and hopes to work closely with this Council in the future.

Mr. Moore asked if the CINMS is looking into establishing regulations beyond the current marine reserve areas under consideration. Mr. Hastings said the CINMS is not, and that waters outside of the marine reserve areas are proposed to remain under Council or state jurisdiction. He said the CINMS is only interested in the designation document authority to regulate fisheries within discreet zones. This action is not intended to usurp Council authority, and regardless of the outcome, the Council, NMFS, and the CINMS will need to continue to coordinate on matters of monitoring and regulating the CINMS into the future.

Mr. Alverson asked if Mr. Hastings was aware of the SSC's statement. Mr. Hastings said yes he is aware of the statement and the SSC request for additional information and documentation. Mr. Hastings stated he will make sure that, between now and November meeting, the SSC and Council have the materials they need to provide informed input. One of the documents was incorrectly cited in the materials as it should have been clear the document was still being drafted.

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

Dr. Kevin Hill provided Agenda Item H.1.c, Supplemental SSC Report.

Mr. Burner read Agenda Item H.1.c, Supplemental GAP Report. Mr. Ghio was asked to come to the podium, there was confusion about what the phrase "majority of the GAP" means and whether there was a minority. It was clarified that this represents a consensus statement, not a "majority". This typo, along with an incorrect reference to the MSA was corrected on the Council floor.

Mr. Burner read Agenda Item H.1.c, Supplemental SAS Report.

Mr. Ellis provided Agenda Item H.1.c, Supplemental HC Report.

Messrs. Russ Svec, Mel Moon, Alvin Penn, and James Delacruz provided Agenda Item H.1, Supplemental Tribal Comment.

#### **H.1.d Public Comment**

Mr. Ed Johnston, fisherman, Toledo, Oregon

Mr. Bob Osborn, United Anglers of Southern California, Huntington, Beach, California

Ms. Kate Wing, NRDC, San Francisco, California

Mr. Tommy Ghio, (read Ms. Kathy Fosmark's testimony on her behalf), Moss Landing, California

#### **H.1.e Council Action: Consider Proposed Draft Fishing Regulations under National Marine Sanctuaries Act Authority for Public Review**

Mr. Harp referenced Informational Report 2 and requested that this letter be part of the Council record for this agenda item.

Ms. Vojkovich moved, and Mr. Thomas seconded a motion (Motion 16) to adopt the following<sup>45</sup> of 47 Minutes - September 2005 (180<sup>th</sup> Council Meeting)

range of options designed to maintain the Council's cooperative and responsive relationship with the National Marine Sanctuary Program:

Option 1: Not to propose fishing regulations for the CINMS under National Marine Sanctuaries Act authority.

Option 2: Recommend fishing regulations to implement Alternative 2 in Agenda Item H.1.a, Attachment 1 under NMSA authority. Requires designation document changes.

Option 3: Recommend fishing regulations to implement Alternative 3 in Agenda Item H.1.a, Attachment 1 under NMSA authority. Requires designation document changes.

Direct Council staff to develop the proposed regulatory language for the options above.

Direct Council staff to send the SSC comments to the CINMS and ask for a response to those comments by October 12, 2005 in time for the November Briefing Book deadline.

Ms. Vojkovich felt the motion represents a range of options that acknowledges the range of public comment. Ms. Vojkovich stressed the importance of the anticipated NOAA determination on fishery management authority when the Council chooses a final option in November and clarified that the issue of potential designation document changes are imbedded in Option 2 and Option 3 for public considerations. Ms. Vojkovich chose not to include Alternative 1 in Agenda Item H.1.a, Attachment 1 because that alternative does not utilize National Marine Sanctuary Act authority. Ms. Vojkovich added that the proposed regulatory language for groundfish EFH under Agenda Item F.4 could serve as a template for developing regulations and expects that final regulatory language would likely be drafted by the staff of the CINMS. Regulations developed by the Council staff should serve to convey Council intent to both the CINMS staff and the public.

Mr. Moore said he supports the motion as it reflects the comments of the public and the SSC and other advisory bodies. He then asked Dr. McIsaac about the reality of having the Council staff write the draft language given the short time period between now and the November Briefing book deadline. Dr. McIsaac stated this task can be accomplished because there is already a strong start given the draft language for groundfish EFH under Agenda Item F.4 and the coordinates and regulatory language provided by the CINMS. Dr. McIsaac then requested NMFS SWR staff provide a review of the Council staff draft language prior to public review. Mr. Helvey responded that NMFS SWR is willing to provide comments and assistance in the drafting of the language and thanked Ms. Vojkovich and the State of California for this motion which provides options under both MSA and NMSA authority prior to the NOAA determination.

Motion 16 passed.

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

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

Mr. Ed Johnston, Toledo, Oregon. Spoke on closure of groundfish fisheries in Oregon. Spoke on OR Senate bills 803 and 805, to prohibit ODFW to close fisheries on major holidays. Urged Senator

46 of 47

Smith (OR) to consider his proposed ideas and asked the Council to consider a rule change to make it so sports fisheries could not be closed on holidays.

Mr. Scott Boley, Gold Beach, Oregon. Testimony concerning the troll salmon fishery; he asked the Council to consider implementing management measures to spread the fishery out and slow it down. He suggested the Council consider measures such as landing limits by delivery; open/closed periods; weekly vessel landing limits or trip limits; or catch levels of trigger points where the above measures might be implemented.

Mr. Dan Mark Wihar, Vancouver, Washington. Spoke about sea turtles issue. He felt sea turtles are important to the environment/ecology. He felt drift nets should not be allowed at all, as they drag up the ocean floor. Voiced his concerns for the need for conservation of the sea turtles.

ADJOURN

The Council meeting was adjourned on Friday, September 23, 2005 at 1:32 pm.



March 6, 2006

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**Council Chairman**

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**Date**