MINUTES
Pacific Fishery Management Council
Crowne Plaza Hotel
1221 Chess Drive
Foster City, CA 94404
(650) 570-5700
October 28 - November 1, 2002

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A. Call to Order

A.1 Opening Remarks, Introductions (10/29/02; 8 am)

The general session of the 166th meeting of the Pacific Fishery Management Council was called to order by Chairman Hans Radtke on Tuesday, October 29, 2002. (Note: the Council convened a closed session on Monday, October 28 at 3:30 pm).

A.2 Roll Call

Dr. Don Mclsaac called the roll.

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<th>Members Present at Time of Roll Call</th>
<th>Members Absent at Time of Roll Call</th>
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<tr>
<td>Jim Caito</td>
<td>Stetson Tinkham</td>
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<td>LB Boydstun</td>
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<td>Roger Thomas</td>
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<td>Dave Gaudet (non-voting)</td>
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<td>Don Hansen</td>
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<td>Hans Radtke</td>
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<td>David Hanson (Parliamentarian, non-voting)</td>
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<td>CDR. Jeff Jackson (non-voting)</td>
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<td>Burnie Bohn</td>
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<td>Ralph Brown</td>
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<td>Jim Harp</td>
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<td>Bill Robinson</td>
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<td>Tim Roth (non-voting)</td>
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A.3 Executive Director's Report

Dr. Don Mclsaac gave complements and thanks to all those involved in the preparation of the groundfish EIS.

A.4 Council Action: Approve Agenda

Mr. Ralph Brown moved and Mr. Phil Anderson seconded a motion (Motion 1) to approve the agenda as shown in Exhibit A.4, November 2002 Council Meeting Agenda. Motion 1 passed.

A.5 Council Action: Approve April 2002 Minutes

Mr. Brown moved and Mr. Burnie Bohn seconded a motion to approve the April minutes (Motion 2) as provided in Exhibit A.5, April 2002 Council Meeting Minutes. Motion 2 passed.
B. Habitat Issues

B.1 Essential Fish Habitat (EFH) Issues (10/29/02; 8:10 am)

B.1.a Habitat Committee (HC) Report

Mr. Michael Rode provided the report of the Habitat Committee (HC) as shown in Exhibit B.1.a, Supplemental HC Report.

Dr. Radtke noted the Klamath letter (Exhibit B.1, Supplemental Attachment 4) was very timely, given the events this summer.

At Mr. Boydstun's request, Mr. Rode gave a brief summary of events related to the recent Klamath fish kill. The letter (Exhibit B.1, Supplemental Attachment 4) provides much of the same information. Dr. Mclsaac asked if there was any indication that the fish affected came from Iron Gate hatchery. Mr. Rode said he had heard that most of the fish affected were wild fish, with some hatchery fish also affected. He said it appeared that a disproportionate percentage of fish had come from the Trinity River.

Mr. Bob Alverson asked Mr. Rode to explain the nature of the disease affecting the Klamath fish. Mr. Rode said the fish were afflicted with gill rot and various fungal diseases which were associated with stress.

Mr. Brown asked about the size of the returns to the river. Mr. Rode said that about 132,700 adult fall chinook were expected to return - a medium-sized run. But the actual returns were unknown at this point.

Mr. Rode said that there was not enough time for a new letter to the Federal Energy Regulatory Commission (FERC) to be developed before the comment deadline.

B.1.b Update on Marine Reserves

Mr. Jim Seger presented Exhibit B.1.b, Supplemental Update on Marine Reserves. There were two letters associated with this update. The first was to the National Oceanic Atmospheric and Administration (NOAA), objecting to the fact that they took a position on marine reserves before the Council had completed its comments on that issue. The second letter was from the Council, providing its comments to the California Fish and Game Commission (CFGC). Dr. Mclsaac provided a brief update on the CFGC meeting that took place in Santa Barbara. The final vote on the Channel Islands marine reserves was two in favor of the preferred option, two absentees, and one against.

Mr. Donald Hansen noted the Santa Barbara meeting was disappointing to him. He felt the decision had already been made and CFGC did not involve the Council input.

Mr. Seger noted the next step in the process is to consider marine reserves in federal waters of the Channel Islands. He noted that the Council had received 7,200 emails coming from the Environmental Defense Fund website urging the Council to move ahead with marine reserves in federal waters. The emails came in after the public comment deadline.

B.1.c Reports and Comments of Advisory Bodies

None.

B.1.d Public Comment

Mr. Guy Grundmeier, Port San Luis Fishermen's Association, San Luis Obispo, California. He felt the CFGC meeting was unfair to the Council. He felt the system had broken down, with two out of the five commissioners absent.
Ms. Shana Beener, National Audubon Society, Islip, New York. Supported the HC’s recommendation to have Dr. Jane Lubchenco speak to the Council on marine reserves.

B.1.e Council Action: Consider HC Recommendations

Mr. Boydstun suggested Council members take a look at the Klamath letter this week and then take it up on Friday. He noted this was the fourth meeting where we had discussed the Klamath situation. He liked the bullets at the end of the letter, which summarize the Council’s recommendations for DOI and DOC. He explained that the letter was addressed to both departments because either of the departments could decide to renew the consultation process.

Mr. Bohn asked if someone would be putting together a comprehensive report on the Klamath fish kill - a record that could be used in the future. Mr. Rode said USFWS was taking the lead in the fish kill investigation and would be putting together a report.

Mr. Roth noted that USFWS had been directed to investigate the situation and find out exactly what the causes were. He felt it was important for the Council to understand the causes and get a report on the issue. He lent his support to the letter before the Council, and supported that it go to both Secretaries (Commerce and the Interior) because there is an opportunity for either Secretary to reinitiate consultation.

The Council agreed to take up this issue later in the week.

Mr. Boydstun noted there is an approaching deadline on the FERC letter. He moved and Mr. Roger Thomas seconded a motion (Motion 3) to resubmit the letter to FERC. He also included in the motion that the Council invite Dr. Jane Lubchenco to make a presentation to the Council at the March Council meeting. Dr. Lubchenco’s presentation would address the fisheries benefits of marine reserves and would relate to the development of a PEIS.

Mr. Brown said Dr. Lubchenco is a strong proponent of marine reserves, and he has heard criticism of her science. He said the Council would probably receive scientific information that would not be run by the advisory panels. He felt her work should be given to the Scientific and Statistical Committee (SSC) to examine before she gives the Council her presentation so that the Council does not accept either a proponent or opponent of marine reserves at face value.

Dr. McLsaac noted the Habitat Committee’s recommendation was for an informational presentation. He asked Mr. Brown whether he would want SSC review of the presentation before or after her presentation. Mr. Brown said he was aware that there had been criticism of her work, and that both sides needed to present information. He said if she has some sort of written documentation that could be provided to the SSC for comment before or after her presentation, that would be satisfactory; he just wants to make sure the information presented is accurate. Dr. Radtke noted Dr. Lubchenco would be working from a document that he had received, and that every member of the Council could receive one before the presentation.

Motion 3 passed.

The Council came back to the Klamath flow letter on November 1, 2002 at 10:04 am.

Mr. Boydstun said he thinks the letter is balanced and fair, and backed up with factual information. On page 5 there are six bullets that clarify the Council’s recommendations:

- Reinitiate ESA consultation. The letter is addressed to both secretaries because re-initiating consultation can be a joint responsibility. Either secretary or department can trigger the consultation.
- Conduct a consultation pursuant to Magnuson Act EFH provisions
- Form a flow management advisory committee
- Complete an SEIS regarding the Trinity River ROD
- Provide the council the opportunity to comment on the long-term operations plan for the Klamath project
- Finalize the extensive work that was done under contract from the USFWS with regard to Klamath flows.
Mr. Boydstun asked for Council consensus supporting the recommendations of the Sacramento River Winter and Spring Chinook Workgroup. He also recommended that Council staff continue to interact with the Workgroup, that the Workgroup provide a written and oral report at the March 2003 meeting, and continue to provide input to NMFS with regard to the Biological Opinion on winter and spring chinook. Council members concurred.

Mr. Anderson stated that for Washington state waters, opening the non-Indian commercial troll fishery prior to May 1 would require additional modeling to accurately assess the effects on stocks that may be impacted, and that some of those stocks are relevant to ocean/in-river sharing agreements. In addition, sufficient troll opportunity is available with a May 1 opening to access the chinook allocation. Therefore, he is recommending no changes to the opening date for the 2003 non-Indian commercial salmon fishery north of Cape Falcon.

C. Salmon Management

C.1 NMFS Report (10/29/02; 8:49 am)

C.1.a Agendum Overview

Mr. Dan Viele provided a summary of the findings from the Sacramento River Winter and Spring Chinook Workgroup (Exhibit C.1, Attachment 1) regarding progress on a Salmon FMP amendment to establish conservation objectives for Sacramento winter and spring chinook. The workgroup recommended delaying development of the FMP amendment for two years, until additional data could be collected.

Mr. Chuck Tracy reviewed Exhibit C.1, Supplemental Attachment 2 (2003 Salmon Season Openings in Oregon and Washington Prior to May 1). Mr. Tracy also referenced the public comment from the Oregon Salmon Commission supporting the March 15th opening date for the 2003 salmon season in Oregon, and offering funds to sample the fisheries during the March 15-April 1 timeframe.

C.1.b Reports and Comments of Advisory Bodies

None.

C.1.c Public Comment

None.

C.1.d Council Discussion on NMFS Report for Salmon Management

Mr. Boydstun asked for Council consensus supporting the recommendations of the Sacramento River Winter and Spring Chinook Workgroup. He also recommended that Council staff continue to interact with the workgroup, that the workgroup provide a written and oral report at the March 2003 meeting, and continue to provide input to NMFS with regard to the Biological Opinion on winter and spring chinook. Council members concurred.

Mr. Anderson stated that for Washington state waters, opening the non-Indian commercial troll fishery prior to May 1 would require additional modeling to accurately assess the effects on stocks that may be impacted, and that some of those stocks are relevant to ocean/in-river sharing agreements. In addition, sufficient troll opportunity is available with a May 1 opening to access the chinook allocation. Therefore, he is recommending no changes to the opening date for the 2003 non-Indian commercial salmon fishery north of Cape Falcon.
Mr. Bohn agreed with Mr. Anderson's comments, and stated that there are no proposals for changing the opening dates for fisheries south of Cape Falcon.

C.2 Update of Ongoing Fisheries (10/29/02; 9:06 am)

C.2.a Agendum Overview

Mr. Tracy provided the agenda overview.

C.2.b Sequence of Events

Council members were referred to their briefing materials.

C.2.c Status of Fisheries

Mr. Allen Grover, Vice Chair of the Salmon Technical Team (STT), provided detailed effort and harvest data for the 2002 salmon season (Exhibit C.2.c, Supplemental STT Report).

C.2.d Reports and Comments of Advisory Bodies

None.

C.2.e Public Comment

Ms. Shana Beemer, National Audubon Society, Islip, New York

C.2.f Council Discussion on Update of Ongoing Salmon Fisheries

Mr. Caito stated his appreciation of the Ft. Bragg troll fishery in August, and encouraged a consideration of the fishery in the future.

C.3 Salmon Management 2003 Option Hearing Sites and Preseason Schedule (10/29/02; 9:21 am)

C.3.a Agendum Overview

Mr. Tracy presented the agenda overview and referred Council members to the proposed preseason management schedule (Exhibit C.3, Attachment 1).

C.3.b Agency and Tribal Comments

Mr. Boydstun stated CDFG is not committed to having a state sponsored hearing at Moss Landing, but may elect to have a meeting in Santa Rosa or Fort Bragg instead.

Mr. Bohn supported the North Bend/Coos Bay hearing location, and stated ODFW is considering a state sponsored hearing in Tillamook.

Mr. Anderson noted WDFW is planning to repeat the 2002 public process, including a public meeting prior to the March meeting and the North of Cape Falcon process between the March and April meetings. He supported the Council sponsored hearing in Westport, Washington.

Mr. Harp noted the tribes will be participating in the North of Falcon process as usual.

C.3.c Reports and Comments of Advisory Bodies

None.
C.3.d **Council Action:** Approve Salmon Management 2003 Option Hearing Sites and Management Schedule

Mr. Brown moved (Motion 4) to approve the 2003 salmon hearing sites as shown in Exhibit C.3, Situation Summary. Mr. Bohn seconded the motion. Motion 4 passed

C.4 **SSC Methodology Review Report (10/29/02; 9:50 am)**

C.4.a **Agendum Overview**

Mr. Tracy presented the agendum overview. The primary methodology under review is a modification of the chinook Fishery Regulation Assessment Model (FRAM) to enable its use with a selective chinook fishery.

C.4.b **SSC Report**

Dr. Peter Lawson presented Exhibit C.4.b, Supplemental SSC Report.

C.4.c **Agency and Tribal Reports and Comments**

**CDFG**

Mr. Boydstun stated he would like to have additional information on specific mark selective fisheries. He expressed his concern regarding the potential effects of mark selective fisheries on the CWT database.

**ODFW**

Mr. Bohn stated that other than the selective fisheries aspects, the modified model is likely an improvement over the previous version, however implementation of the model for selective fishery evaluation would probably not be appropriate until 2004. He stated that the Pacific Salmon Commission (PSC) Selective Fishery Evaluation Committee has determined that mark selective fisheries in extreme terminal areas have not threatened the integrity of the CWT data base, but that they are concerned with marine and near terminal area fisheries. He indicated that the ODFW representative to the STT could provide a summary at the March 2003 meeting on chinook marking programs and current mark selective chinook fisheries in Oregon, such as the Columbia River spring chinook fishery, and requested that other agencies contribute to such a summary.

**WDFW**

Mr. Anderson stated that WDFW has supported chinook production programs in Puget sound through the legislative process as well as user fees. Nearly all of the production is mass marked with the intent of providing recreational opportunity while minimizing impacts on wild stocks. The production programs are all in compliance with Council process, co-manager processes, and the NMFS approved Puget Sound chinook management plan. He noted that WDFW intends to initiate pilot mark selective chinook fisheries in Puget Sound Area 10 in the winter and Areas 5 and 6 in the summer. He noted that development of the chinook FRAM to evaluate the proposed fisheries involved WDFW staff as well as coordination with the Council, PSC, NMFS and the co-managers. He stated that no mark selective chinook fisheries are contemplated for Council area fisheries in the foreseeable future (about 5 years). He indicated that the proposed fisheries for 2003 would have no more than a 1% exploitation rate on ESA listed Puget Sound chinook, and that the proposals would be submitted to the PSC by November 1 for review at their February meeting. The limitation in the scope of the STT and SSC review is WDFW’s greatest concern. He believes their review is based on an inadequate knowledge of technical workings of the coho and chinook FRAM’s, and their conclusions regarding the magnitude and significance of the potential effects of FRAM use in 2003 are speculative and relevant to mark selective fisheries that are unrealistic. He supported the STT recommendation for additional model documentation and review. He stated that in order to determine the significance level of mark selective fisheries, the proposed pilot fisheries should be conducted in 2003. He indicated that when addressing the issue of buffers to address uncertainty in the chinook FRAM, the ceiling exploitation rates for Puget Sound...
chinook have built in conservatism, and the magnitude of the proposed pilot fisheries is small. The use of management buffers should be considered in this context.

**Tribal**

Mr. Jim Harp presented the following comments:

*The tribes agree with the major recommendations of the SSC and STT.*

1. The changes made during the last year should improve the model for the assessment of non-selective fisheries in 2003.

2. Given the stated concerns of the SSC and STT, it is premature for the Council to recommend that the model be used to evaluate mark-selective fisheries in 2003.

*The tribes will continue to work together with WDFW to resolve the outstanding issues identified with modeling multi-fishery, multi-month, and multi-year mark-selective fisheries.*

*The tribes have devoted 1 full-time staff person to work with WDFW in the development in the chinook FRAM update.*

*Thank you.*

**NMFS**

Mr. Robinson noted that improvements made to the chinook FRAM model are appropriate for use in 2003 for non-selective fisheries, but that use of the model for mark-selective fisheries is premature. He stated NMFS requires a high level of confidence in the model to advocate its use for assessing impacts to listed Puget Sound chinook, but using the pilot fishery approach would be appropriate provided adequate coordination and communication occurred.

**USFWS**

Mr. Tim Roth supported Mr. Robinson's comments. Regarding Mr. Bohn's comments, he indicated USFWS is mass marking almost all of the Columbia River spring chinook produced at USFWS facilities. He supported Mr. Bohn's suggested summary from all agencies of marking programs and plans.

C.4.d Reports and Comments of Advisory Bodies

**STT**

Mr. Dell Simmons, summarized Exhibit C.4.c, Supplemental STT Report.

C.4.e Public Comment

None.

C.4.f Council Action: Adopt Methodology Changes as Appropriate

Mr. Anderson moved (Motion 5) that the Council establish a model evaluation workgroup as suggested by the SSC. The workgroup would establish goals for the workgroup, including the consideration of the SSC recommendations, and report back to the Council as to what work products would be expected. Mr. Alverson seconded the motion.

Dr. McLsaac asked when the workgroup would report to the Council. Mr. Simmons replied that June would be a reasonable time to produce a status report.
Dr. Lawson inquired about the composition of the workgroup, the leadership, and scope of tasks. Mr. Anderson replied that the composition would include representatives from tribal interests, USFWS, NMFS, WDFW, ODFW, CDFG, STT, and SSC. The workgroup would establish their own purpose and objectives in consideration of, but not limited to, the recommendations of the SSC. He requested that the Executive Director, and the Chairs of the Council, the SSC, and the STT meet to discuss leadership issues.

Mr. Robinson asked if the motion was to set up a standing committee to evaluate all models or just this one particular issue. Mr. Anderson replied that his intent was that the workgroup would have a broad scope. The issue of a standing vs. temporary committee would be taken up by the workgroup. Mr. Robinson then asked if they were asking the model evaluation group to establish its own priorities or seek Council input. Mr. Anderson replied that the workgroup would provide an initial priority list that the Council could modify.

Mr. Roth asked if the workgroup mandate was sufficiently broad to include the KOHM and winter chinook model in California. Mr. Anderson replied that the chinook and coho FRAM would be the near term priorities, but that if the workgroup recommended additional model evaluation, the Council could consider those recommendations as they arose.

Motion 5 passed.

Mr. Anderson moved (Motion 6) to approve the use of the modified chinook FRAM in evaluating Council area non-mark selective chinook fisheries provided that the functionality of the terminal area management modules interface is established to the extent required to verify the assessed impacts on Puget Sound stocks. Furthermore, the Council requests WDFW to provide documentation and additional review opportunity for the chinook FRAM, as recommended by the STT and SSC. Mr. Cedergreen seconded the motion.

Motion 6 passed.

Mr. Anderson moved (Motion 7) that the Council evaluate proposed Puget Sound mark selective chinook fisheries developed in the North of Falcon forum and determine the significance of estimated impacts to stocks of concern after review by the PSC, approval by the relevant treaty tribes, and approval by NMFS relative to the compatibility with the Puget Sound chinook management plan. The Council will further determine whether the concerns of the STT and SSC have been met. Mr. Cedergreen seconded the motion.

Mr. Boydstun inquired about the location and jurisdiction of the proposed fisheries, and the relevance of Council involvement. Mr. Anderson responded that the fisheries were in WDFW jurisdiction, but could potentially affect stocks of concern to the Council, including Columbia River stocks. He indicated the motion was intended to address the concerns expressed by the SSC and STT regarding estimated levels of impacts and appropriate management buffers.

Mr. Robinson asked if the intended result of the motion was approval of the methodology pending agreement of the tribes, NMFS, the STT and SSC. Mr. Anderson responded that the intent was to allow the Council to determine whether there were significant effects on stocks of concern to the Council. If not, then the Council would not oppose the proposed pilot mark selective fisheries. If however, the Council determined that there were significant impacts the Council could oppose the fisheries.

Mr. Harp noted the tribes would be working with WDFW on the proposed pilot fisheries. He indicated that in planning for 2001, Council area salmon fisheries and seasons were modified to provide escapement of an additional six wild adults for one Puget Sound chinook stock, demonstrating that "significant" can be a very small number.

Mr. Brown asked if the Council’s determination would occur in April 2003. Mr. Anderson replied yes.

Motion 7 passed.
D. Highly Migratory Species Management

D.1 NMFS Report on Highly Migratory Species Management (HMS) (10/29/02; 11:17 am)

D.1.a Agendum Overview

Mr. Fougner noted there has not been much activity in regard to domestic or international HMS fisheries. NMFS met with U.S. Coast Guard and U.S. albacore troll fishermen to discuss action necessary to implement the revised U.S. - Canada Albacore Treaty, which has a June 2003 implementation date. Anticipate a first draft of the implementing regulations to be available in January 2003. Inter-American Tropical Tuna Convention (IATTC) Work Group on Negotiations met recently to develop draft negotiating text to revise the convention that established the IATTC. Progress has been made, and the parties are very close to a final negotiating text, which would be presented to the IATTC for action in June 2003.

D.1.b Reports and Comments of Advisory Bodies

None.

D.1.c Public Comment

Mr. Boydstun requested Mr. August Felando to speak to the Council. Mr. Felando discussed with the Council the Pacific Fisheries Act, notably the jurisdiction of the IATTC. He opined if the IATTC adopted a resolution about albacore fisheries, the Pacific Fisheries Act could be used to promulgate regulations.

D.1.d Council Discussion on NMFS Report for HMS

Mr. Anderson asked about legislative authority relative to the U.S. - Canada Albacore Treaty.

Mr. Fougner explained that, currently, there is no U.S. legislative authority for promulgating regulations to implement provisions of the U.S. - Canada Albacore Treaty. It is anticipated the HMS Fishery Management Plan, when implemented, could be the vehicle for implementation of these provisions.

Mr. Boydstun asked about treaties in general.

Mr. Fougner noted the Tuna Conventions Act is applied only to promulgation of regulations relative to IATTC activities. It is not used for U.S. - Canada Albacore Treaty. (See Mr. Felando's comments under D.1.c).

D.2 Adoption of Final HMS Fishery Management Plan (FMP) (10/29/02;)

D.2.a Agendum Overview

Mr. Dan Waldeck provided the agendum overview. The Council is scheduled to take final action on the fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries. This action was delayed from March 2002 when it was decided that additional information and analyses should be developed prior to final Council action. In June 2002, the HMSPDT provided a progress report to the Council. In August 2002, an internal review draft was distributed for Council and advisory body review. The current draft (September 2002) contains revised and additional information. These revisions are summarized in Attachment 1. Draft implementing regulations and regulatory impact review are provided as supplemental attachments.

In the draft plan, the Council has specified preferred options in some cases, and not specified preferences in others. At this meeting, the Council is scheduled to select options for final recommendation to the NMFS.

D.2.b Highly Migratory Species Plan Development Team (HMSPDT) Report

Dr. Dale Squires and Mr. Steve Crooke provided the HMSPDT Report as a Powerpoint presentation.
Dr. Radtke asked Dr. Squires about his economic analysis, especially producer surplus and profits. Producer surplus is comprised of crew and skipper wages that would not be spent because they are not fishing? The skipper and crew would have to seek alternative employment.

Dr. Squires responded, producer surplus is equal to total revenue minus total operating costs (e.g., crew, fuel, oil, food, etc.); with the exception of labor. Labor costs are determined by using the next best alternative source of labor for an individual to estimate foregone wages from not being able to fish. He continued to explain some of the mechanics and assumptions of his economic analysis. Notably the basis for the alternative labor sources.

Dr. Radtke asked about the assumption that once an individual begins the alternative labor, he or she will remain in that type of job for 25 years?

Dr. Squires responded, yes. Twenty five years is the assumed economic life.

Dr. Radtke then asked about crew wages lost to alternative employment, are those compared directly or reduced by the amount a self-employed individual has to pay for insurance, taxes, etc.?

Dr. Squires stated they were treated separately.

Mr. Brown asked about the various alternatives for managing long line gear within the U.S. EEZ and how exempted fishing permits (EFPs) related to the alternatives.

Mr. Fougner detailed the distinction among the long line alternatives relative to EFPs. NMFS regulations per EFPs would be the minimum, the Council could recommend further requirements.

Mr. Fougner asked about the drift gill net (DGN) fishery analysis that was presented. The impacts discussed represent impacts from regulations implemented by NMFS in the past year, they would not be new impacts resulting from implementation of the HMS FMP.

Dr. Squires noted the impacts are estimates based on observer data since October 1997 (when the Take Reduction Plan went into effect) through 2001, using catch rates averaged over the period per trip. An ex post analysis. Dr. Squires also noted some other particulars of the analysis. For example, the ease of substituting foreign product for domestic product (long line caught swordfish) and the possible environmental effects from non-U.S. fisheries (takes of sea turtles). He noted a reasonable assumption that, because sea turtle takes would continue in foreign fisheries, whatever benefits were derived from reducing U.S. takes of sea turtles (through the HMS FMP restricting long line fisheries) would be dissipated because the sea turtles would be taken by foreign fisheries providing product (long line caught swordfish) to the U.S. market.

Ms. Vojkovich asked the HMSPDT to review the results of their analysis of the small mesh DGN fishery.

Mr. Crooke referred to page 267 of chapter 2 in the HMS FMP, which contained a table displaying the results of the analysis. In 2001, four vessels used small mesh DGN to target tuna (albacore and bluefin tuna). Logbook data indicates some incidental catch of other finfish species. The vessels involved garnered 20-40% of their annual income through use of small mesh DGN. These operators also held shark/swordfish permits, thus, during the year, they also fished with large mesh DGN. The small mesh DGN trips were not observed trips. Thus, there is no information on bycatch or interaction with protected species.

Ms. Vojkovich asked if logbooks were the only source for determining mesh size use and if logbooks included information on bycatch or discard. Mr. Crooke stated, yes, logbooks were the only available source where mesh size is recorded, but logbooks do not have information on bycatch and discard.

The Council discussed with Dr. Squires the revenue impacts estimated by his analysis.

Dr. McIsaac asked about inclusion of language for management cycle flexibility adopted by the Council in March 2002. Mr. Crooke noted this was an omission, which will be corrected.
The Council also briefly discussed the need for the federal FMP, including a vehicle for implementing international obligations, basis for federal limited entry program, and providing for fishing under federal exempted fishing permits.

D.2.c Agency and Tribal Comments

Tribal

Mr. Harp made the following comments:

*I will be referencing at Chapter 8, pages 21 and 22 of the September 2002 draft of the HMS FMP.*

*The tribes support the preferred option, Alternative 2, regarding Treaty Indian fisheries listed under the proposed HMS FMP.*

*Under Alternative 2, treaty fishing rights would be accommodated in the implementing regulations with the measures and procedures outlined in Alternative 3.*

WDFW

Mr. Anderson gave compliments to the HMSPDT, HMSAS, and agencies involved in the preparation of the document and the huge investment in developing the FMP.

ODFW

Mr. Bohn agreed with Mr. Anderson’s comments. He noted the FMP is an important compilation of information on West Coast HMS fisheries. The FMP will provide a basis for coordinated management with the other Pacific region councils.

CDFG

Ms. Vojkovich complimented the work of the FMP developers, including fishery stakeholders. She was impressed at how many divergent views were brought closer to accord through the FMP development process.

NMFS

Mr. Fougner echoed the support and compliments to the HMSPDT and HMSAS.

USFWS

Mr. Roth echoed the praise to the process and participants.

D.2.d Reports and Comments of Advisory Bodies

HMSAS


*The Highly Migratory Species Advisory Subpanel (HMSAS) met with the HMS Plan Development Team (HMSPDT) on October 22-23, 2002, in San Diego, California. The HMSAS reviewed the September 2002 draft fishery management plan (FMP) and the proposed changes to the September draft FMP prepared by the HMSPDT, the October 7, 2002 draft of the proposed regulations, the first draft of the Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA), and a status report on development of observer program sampling plans and logistics.*

*The HMSAS meeting was attended by 11 members (of a total of 13) on October 22, and by 9 members on October 23.*
The HMSAS also wanted to meet again formally on October 28, but this was not possible, because of budget limitations. Some of the members will attend the HMSPDT meeting on October 28 at their own expense.

In addition to the following formal HMSAS recommendations on the FMP, individual members recommended a number of specific language changes directly to the HMSPDT to improve the accuracy of the FMP and also provided specific comments directly to the author of the draft regulations.

Opposition to the FMP

The HMSAS voted (6 yes, 2 no) to support the following statement in opposition to the FMP:

It is with regret that the majority of the HMSAS have come to believe they cannot support and will actively oppose the adoption of the draft HMS FMP.

First, we sincerely and without reservation thank the members of the FMP drafting team, and especially their consultant, for their herculean efforts in bringing together existing and new information about the HMS fisheries off the West Coast of the United States. Their efforts are greatly appreciated today, and will be by generations of fishermen to come. We also want to thank the Pacific Fishery Management Council, and particularly their staff for the continuous and outstanding support they have provided in these efforts. Finally, we also wish to express our appreciation for the funding, legal, and regulatory help and advice that NOAA/NMFS has been able to offer.

This draft FMP cannot be supported for the following reasons:

1. When conceived, this FMP was to provide a framework for implementing rules, regulations and resolutions of international regional management organizations of which the United States is a member. Highly migratory species in the eastern and central Pacific are already under international regulation and conservation, where those multilateral entities have concluded it is necessary. The "piling on" of unnecessary federal regulations on top of these same fisheries is a tremendous waste of tax payers' money and government and private resources. Those fisheries are already managed under the Pacific Tuna Conventions act and the soon to be passed implementing legislation to the U.S. Canada Albacore treaty.

2. Second, a secondary, but major goal of the FMP, was to harmonize the regulations of the three west coast states which are active members of the council, and to harmonize management and scientific research efforts between the council and the western Pacific Fishery Management Council (WPFMC). Neither goal has been approached. Anomalies between state regulations which have been resolved, have been resolved by state legislation. Any effort to resolve conflicts between the two councils which share management of HMS in the Pacific, have been cursory, or proposed to be taken without regard to the due process rights of west coast fishermen and others.

3. Third, no genuine consideration of the American consumers' right to a free flow of American-caught fresh fish, which is a substantial source of healthy protein, is reflected in the draft FMP. Rather, measures are suggested which would without question subject American fishermen to competitive disadvantages. This is particularly egregious in the face of increasing demand for fresh seafood in the U.S., particularly tuna, and the increasing share of this demand which is being filled by foreign suppliers, which in many cases have displayed little regard for the sustainability of these resources.

4. Fourth, several actions suggested or recommended by this draft FMP are clearly not based on the best scientific information available, and in some instances are obviously political, rather than scientific management decisions.

While we are hesitant to make this statement in view of the efforts which have been expended thus far by all involved in the drafting of this FMP, we believe we have an obligation to the public at large, to the fishermen, their suppliers, and the commercial buyers and processors throughout the west coast, and perhaps most importantly to the policy makers in Washington, DC, whether they be in the executive or legislative branches of our government, that adoption or release for public comment of this FMP is unnecessary, duplicative, unhelpful to existing concerns, scientifically flawed in its conclusions, and not in the best interests of the United States.

To remain silent would be to shirk our responsibilities and obligations as members of the HMSAS.

This statement was supported by the six commercial fishing representatives present and opposed by the two sport fishing representatives present. This vote was taken on the second day of the meeting, when the conservation and charter boat members were not in attendance. Also, the southern and northern processors representatives were not in attendance during the entire meeting.

Minority Response

The sportfishing members of the HMSAS submitted the following statement; the conservation representative also supported this response:

According to a letter dated November 20, 2000 from D.O. Molsaac, Ph.D., executive director, Pacific Council in response to our request for a better balance of recreational representation on the HMSAS, the following was noted regarding council's
consideration of our request: "The council noted the HMSAS is not intended to be a "voting" entity in which the numbers of representatives of different sectors are carefully balanced."

As such, the council should consider the merits of the "majority" statement rather than the vote tally. We will address our comments on a point-by-point basis.

We support the adoption of the draft HMS FMP with its suite of proposed actions. We have noted that inadequate budgets were available for adequately compiling and analyzing historical recreational data, however, its is our view that the plan's "proposed actions" does not unfairly adversely affect recreational fishing. Further, adoption of the plan will provide opportunities to cure shortcomings on recreational fisheries data in order to prepare for the future.

We specifically address the rationales expressed by the commercial representatives item by item:

1. We have difficulty understanding what this complaint is. Commercial representatives originally championed the idea of an FMP to implement federal regulations in accordance with Magnuson and are now claiming it's a waste of money and resources without providing any substantive explanation as to why.

2. This FMP indeed does substantially further both causes originally championed by the commercial representatives. This FMP goes a long ways to bringing harmony to regulations over fisheries under the control of the Pacific Council and WPFC. We submit that, in fact, the commercial representatives are merely now opposed to such harmony. In this HMSAS report the commercial representatives have voted to deharmonize these regulations (see Longline - outside the EEZ, below in this HMSAS statement). Additionally, significant new harmony is being created between state regulations with universal logbooks, monitoring, data collection, and permitting. These measures will help provide a consistent method of data collection and careful management to protect habitat, reduce bycatch, and improve EFH.

3. We agree problems exist with foreign fishing. However, it is our belief this FMP will provide an opportunity to begin to correct the shortcomings of existing international management by bringing a consistent United States message to international negotiations. This FMP provides a consistent national basis for addressing problems to protect the value of public resources and provide for long-term beneficial use of our resources both recreationally and commercially while recognizing local needs.

4. We disagree the management regime proposed by this FMP is not based on the best scientific information available. Because of budget and time constraints more data on recreational fishing is available than was collected and utilized, however, it is also our belief that if such data was collected and utilized through additional efforts the same recommended management regime would have resulted. Our position remains consistent that these data gaps must be corrected before any increase in fishing effort is allowed. This FMP provides a basis for beginning to adequately baseline recreational fishing.

General Comments

Observer Programs (FMP Section 8.4.5)

The proposed action in the FMP mandates observer programs initially for the longline, surface hook-and-line and small purse seine fisheries and indicates that observer sampling plans would be prepared for these 3 fisheries plus the commercial passenger fishing vessel (CPFV) and private recreational fisheries. There was considerable discussion at the HMSAS meeting about the need to observe all HMS fisheries, including CPFV and private recreational fisheries. There also was confusion about the Council action in June 2002 on this issue. Some individuals thought the Council-preferred alternative included the CPFV fishery. Commercial fishery representatives argued there is no justification provided for putting recreational fishery observer programs "on the back burner," especially given that the recreational fishery is the one where we have the least information. Recreational representatives and the conservation representative noted that an observer program for the private recreational fishery presents special difficulties, because of the large number of small vessels; an observer program may not be the best way to collect information on bycatch and bycatch mortality in this fishery. Furthermore, the FMP proposes a voluntary catch-and-release program for the recreational fishery, in which released fish would not be considered bycatch. The HMSAS voted (9 yes, 2 no) to recommend addition of a fourth alternative to the FMP, which would mandate observer programs for all HMS fisheries.

The HMSAS also received a status report from the contractor preparing observer sampling plans for HMS fisheries and provided a number of specific comments directly to the contractor.

Longline (8.5.2)

Outside EEZ: The commercial representatives are concerned that the proposed alternative for longlining outside the EEZ will effectively shut down the fishery. Since this fishery operates in a different area than the Hawaii-based fishery, they believe that imposing all of the onerous western Pacific regulations is inappropriate. The HMSAS voted (8 yes, 3 no) to recommend alternative 3 as the preferred alternative. This alternative would apply most of the western Pacific measures to the West Coast-based fishery, but would not include the ban on swordfish targeting.

Inside EEZ: Commercial fishery representatives argued that it is unnecessary and confusing to include alternatives 2 and 4, which propose a prohibition on longlines in the EEZ and include specific exempted fishing permit (EFP) procedures to be used to evaluate longlines. They feel the EFP process should be addressed after implementation of the FMP when EFP
applications are submitted, and the decision at this time should simply be a choice among the 3 remaining alternatives: no action (alternative 1), a limited longline fishery (alternative 3), or a general prohibition (alternative 5). The sport fishery representatives disagreed and stated that the process needs to remain open and transparent with all of the alternatives considered. The HMSAS voted (6 yes, 2 no, 1 abstain) to recommend that the Council delay dealing with the 2 EFP proposals as part of the FMP process and deal with them after FMP implementation when an application is submitted. (This vote was taken on the second day of the meeting when the conservation and charter boat members were not in attendance.)

Purse Seine (8.5.3)

The proposed action would close the EEZ north of 45° N latitude to purse seine fishing to address concerns about potential bycatch, protected species interactions and gear conflicts. Some members of the HMSAS have been concerned for some time about the lack of information to justify this closed area, and we were prepared to recommend another preferred alternative for Council consideration which would close the area inside 25 miles north of 45° N (vote 7 yes, 1 no). However, subsequent to this action, the HMSAS was informed by the Washington State member of the HMSC that the State of Washington would support alternative 4, which would open the entire EEZ to purse seine fishing. In response to this change, the HMSAS rescinded the former action and voted to support alternative 4 (8 yes, 1 abstain).

There is a potential problem that needs to be addressed that pertains to the State of California purse seine closure in Santa Monica Bay (District 19A). Sport fishing representatives are concerned that a portion of this closed area extends into the EEZ and want to make sure that this closure continues to be in effect after implementation of the FMP. We were unable to verify the extent of this closed area at our meeting, and asked the State of California to look into this issue and be prepared to address it at the Council meeting if necessary.

Permits (8.5.5)

The proposed action requires that a federal permit be obtained for each U.S. fishing vessel used in commercial fishing for HMs, with a specific endorsement for each gear type, and requires a federal permit for all charter vessels (emphasis added). The HMSAS believes that permits need to be issued to persons, and voted unanimously to recommend that permits be assigned to a person for a vessel. That would mean that in alternative 2, Ch. 8, Page 32 under Commercial Permits, the words “for each” be stricken and replaced with “by a person for each”.

It was brought up in discussion that under the new proposed U.S./Canadian albacore treaty, one nation may operate under a different set of management directives than the other. One example given was that U.S. fishermen may require to carry observers while Canadians may not depending on regulations. Also Canadians may not be required to have the same permit or any that U.S. fishermen will be required to possess while fishing within the EEZ of the U.S.

Scientific Information in the FMP

There is concern that the FMP contains data that has not been peer reviewed and in some situations is presented in an unsubstantiated or biased manner. There also is concern that the most recent data available is not included in the FMP. The HMSAS voted (7 yes, 1 no) to request the addition of a statement to the FMP that the data in this document is the best available science, but may not be the most recent and may not be peer reviewed. The recreational representative who voted no, noted that indeed more recent data may have come available during the plan development, however, a great deal of available historic data on recreational fishing was left out of the plan because an experienced recreational economist was never assigned to the plan team nor adequate budget committed to effectively compile and analyze available recreational data by the plan team economists. The representative also noted that while more recent data may have come available during the developent the FMP, that situation will almost always be the case. Additionally, there is no generally-accepted definition of what a peer review entails and that in fact the Scientific and Statistical Committee of the Council provides a form of peer review. The recreational representative strongly supports the plan going forward with the preferred options despite the plan's shortcomings; as implementing the plan will provide an opportunity for funds to come available to compile good recreational baselines for future decision making under the plan's framework.

Comparisons of initial Magnuson Alternatives by Fishery (8.5.7)

The Plan Development Team agreed to add language to the chart Ch.8, Pg 41, in the row of "stock health." In the box under alternative 2 - Preferred Action it was agreed to eliminate the " " and add the words "and domestic fleet harvest reduction."
The Council discussed with the HMSAS the intent of the HMSAS recommendation for issuance of permits to individuals rather than to vessels. A permit would be tied to an individual and a specific vessel.

EC

Captain Mike Cenci provided the following comments (refer to meeting tape 7a for complete text): In order to understand the full impact on enforcement issues, the EC needs some items clarified. For example, individual state rules would be adopted as part of a management scheme. That would create an uneven management regime. There were concerns over enforcement issues related to having a mix of state and federal legislation.

Ms. Cooney stated it was her understanding that, upon adoption of the FMP, some federal regulations would be implemented and some state regulations would continue to be in place. A state's regulations would apply to vessels registered in that state, whereas federal regulations would apply to all vessels fishing for HMS in federal waters. Captain Cenci noted that this has created problems because of differing regulations and enforcement mechanisms. It would be preferable if these enforcement issues were clarified.

The EC recommends having two enforcement options. Currently, if a state resident vessel is found in violation offshore (3-200 miles), enforcement can impose federal civil penalties or state criminal penalties. These are very different venues and each carries different sets of penalties. However, if a non-resident vessel is found in violation, the only option is to enforce federal civil penalties. This results in potential inconsistent treatment of residents versus non-residents. The EC recommends that state officers are given two options: (1) enforcement via state penalties equitably applied to anyone regardless of residency; or (2) refer all violations to the federal arena.

Mr. Fougner clarified that, under the preferred alternative, there would be a mix of federal and state regulations. For example, DGN fishing would be federally regulated off Oregon and Washington, but bag limits on certain species would continue to be promulgated and enforced by individual states and apply to resident vessels.

D.2.e Public Comment (10/29/02; 3:01 pm)

Mr. Bob Osborn, United Anglers of Southern California; Lakewood, California
Ms. Kathy Fosmark, Fishermen’s Association of Moss Landing; Pebble Beach, California
Mr. August Felando, commercial purse seiner; San Diego, California
Mr. Ken Hinman, National Coalition for Marine Conservation; Leesburg, Virginia
Mr. Bob Fletcher, Sportfishing Association of California; San Diego, California
Ms. Kate Wing, Natural Resources Defense Council; San Francisco, California
Mr. Wayne Heikkila, Western Fishboat Owners Association; Eureka, California
Mr. Pete Dupuy, commercial fisherman; Tarzana, California
Mr. Peter Flourney, International Law Offices; San Diego, California
Mr. Ed Backus, Ecotrust; Charleston, Oregon
Mr. Doug Fricke, commercial fisherman; Hoquiam, Washington
Ms. Shana Beener, National Audobon Society; Islip, New York
Mr. Ron Gaul, Recreational Fishing Alliance; Oakland, California
Mr. Russell Nelson, The BillFish Foundation; Oakland Park, Florida
Mr. Jim Fisher, commercial fisherman; Hammond, Oregon
Mr. John La Grange, F/V Janthina; Solana Beach, California
Mr. Tom Raftican, United Anglers of Southern California; Huntington Beach, California
Mr. Jock Albright, recreational fisherman; Costa Mesa, California
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California

D.2.f Council Action: Adopt Final HMS FMP (10/29/02; 4:36 pm)

Ms Vojkovich suggested the Council approach adoption of the FMP in two phases. First, consider whether to adopt the FMP. Second, select preferred alternatives.
Ms. Vojkovich moved (seconded by Mr. Thomas; Motion 8) that the Council adopt the draft HMS FMP.

The Council discussed the work that had gone into creating the FMP and the benefits to the Council and HMS stakeholders from adoption of the plan. The Council noted the FMP would provide a vehicle for input to international fisheries fora, improve coordination of federal and state management, and provide for improved collection of biological and economic information. The FMP will showcase West Coast HMS fishery issues, increase public awareness, and provide for public involvement. The Council noted the strong need for adequate and dedicated federal appropriations to support the Council and NMFS for research and management of West Coast HMS fisheries.

In adopting the FMP, the Council echoed the concern of its advisors and the public regarding unilateral action that may be necessary to address environmental concerns such as overfishing. The Council recognized that unilateral action could be disadvantageous to U.S. commercial interests.

Mr. Fougner reviewed section 304(e)(4)(C) in the Magnuson-Stevens Act, which describes how U.S. managers should react to overfishing in fisheries managed under international agreement.

The Council expressed interest in working with NMFS and international management bodies to ensure conservation mandates are met, while heeding the need to dampen negative impacts on U.S. commercial fisherman.

During the discussion, Ms. Vojkovich, Messrs. Brown, Hansen, Anderson, Bohn, and Alverson (while acknowledging the reservations of the commercial advisors and the public) spoke in favor of adopting the FMP.

Vote on Motion 8: Passed on unanimous voice vote.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 9) for preferred alternatives in the HMS FMP (see, Supplemental Recommended Motion).

Ms. Vojkovich reviewed the recommendations in Exhibit D.2.f. [The Council’s final preferred alternative recommendations are detailed in the November 2002 edition of the Council Newsletter.]

Dr. McLisaac suggested that language providing the Council the flexibility to alter the management cycle, which the HMSPDT in testimony admitted was errantly omitted from the FMP, be included under Management Cycle, Alternative 2. The maker and seconder of the motion agreed to include language adopted by the Council in March 2002, which provides the Council a framework to alter the management schedule.

Regarding exempted fishing permits (EFPs), Ms. Vojkovich recommended directing the HMSPDT to develop a set of guidelines for the Council to use in reviewing HMS-related EFP applications. These guidelines would be similar to Council Operating Procedure–18, which guides Council review of salmon-related experimental fisheries.

Again referring to Exhibit D.2.f, Ms. Vojkovich continued to review the recommended preferred alternatives.

Mr. Brown, while generally supportive of the motion, asked for clarification of how the drift gill net (DGN) closures, notably at the 1000 fathom curve, would be applied. He was concerned that inconsistencies between different regulations applying in different state waters could create enforcement problems. Specifically, Mr. Brown said he did not understand the intent of DGN alternatives 2 and 6.

Mr. Anderson, to clarify, stated that if just DGN Alternative 2 was adopted, current federal (MMPA and ESA) related regulations would continue, current state regulations for DGN swordfish and shark fisheries (except California’s DG limited entry system) would become federal regulations. This would include current closed areas, which could be enforced regardless of the residency of the violating vessel owner (i.e., where the vessel is licensed). However, the applicable enforcement venue could depend on residency, as described by Captain Cenci above during the EC Report. Alternative 6 would modify current state regulations by creating a federal prohibition on the use of DGN in waters less than 1,000 fathoms.
Mr. Bohn clarified that the proposed closures under DGN Alternative 6 would be more restrictive than current regulations and preclude the vessels that are currently fishing in those areas.

Mr. Brown proposed an amendment to Motion 9 (Amendment 1) to make the preferred alternative for DGN fisheries Alternative 6 such that above 45° N latitude DGN fishing could not occur in waters less than 1,000 fathoms. This would allow current DGN fisheries in Oregon waters to continue. Mr. Bohn seconded the amendment.

Mr. Anderson asked for a friendly amendment to change Amendment 1 such that the 1000 fm closure would apply North of 46 degrees 16 minutes N latitude. Under his change, the current closure under Washington state regulations would continue as a federal regulation. Mr. Brown did not accept the friendly amendment.

Mr. Anderson then proposed a formal amendment. Mr. Alverson seconded the amendment. The amendment would change the preferred alternative for DGN fisheries to include a closure to fishing in waters less than 1000 fathoms off Oregon and close all waters North of 46 degrees 10 minutes N latitude to DGN fishing.

As rationale for his proposal, Mr. Anderson noted results from a Pacific States Marine Fisheries Commission study on the thresher shark fishery and a previous EFP fishery. He stated the States made a joint decision to close that fishery based on the bycatch of marine mammals and sea turtles. The development of the interjurisdictional management plan for thresher shark in 1990 led to the states of Washington and Oregon agreeing to close the DGN fishery. His concern is about marine mammal and sea turtle impacts and apparent declines in thresher shark abundance. He noted that DGN fishing could be allowed under an EFP.

Mr. Bohn understood what Mr. Anderson presented. However, it is his understanding that the vast majority, if not all, of the catches noted were taken inside 1,000 fathoms. He has not seen more recent information. The 1000 fathom closure would provide protection without affecting current fisheries.

Mr. Anderson countered that the 1000 fathom line is approximately 125 degrees W longitude, and that there was potential for impacts on marine mammals and sea turtles.

Mr. Fougner asked for clarification on what the Council was considering, an amendment to the amendment to Motion 9. Dr. McLsaac read the motion, the amendment, and the amendment to the amendment.

Amendment 2 passed, there were 2 no votes (Mr. Bohn and Mr. Brown) and 1 abstention.

Through this action, Amendment 2 (substituting for Amendment 1) altered the DGN fishery preferred alternative listed on Exhibit D.2.f such that existing state regulations and closures (except California’s limited entry program) would become federal regulation and two new closures would be included: one off Oregon in waters less than 1000 fathoms, and a second in all waters North of 46 degrees 10 minutes N latitude.

Mr. Fougner asked for a friendly amendment to clarify the timeline for development of “observer sampling plans” under the Observer Program Authority–Alternative 2. He suggested the text be change to indicate the plans would be due within six months of Secretary of Commerce approval of the FMP. Ms. Vojkovich and the seconder of Motion 9 agreed to the friendly amendment.

Relative to observer programs, the Council discussed funding issues. Mr. Fougner noted that there is currently funding for the DGN observer program and NMFS is endeavoring to secure necessary funds for observation of the other HMS fisheries.

Mr. Anderson, for clarification relative to treaty Indian fishing rights (FMP page 8-21) expressed support for Alternative 2, which calls for initial implementing regulations. He noted that Washington Department of Fish and Wildlife disagreed with certain aspects of the NMFS description of the treaty Indian tribes’ usual and accustomed grounds and stations as described in Federal regulations (64 Fed. Reg. 24087-24088 – May 5, 1999, groundfish; and 50 CFR 300.64(i), halibut).

Mr. Caito asked for clarification of the proposed preferred alternative for long line fishing outside of the U.S. EEZ. What is the difference between alternatives 2 and 3?
Ms. Pleschner asserted that an El Nino was developing off the West Coast, which could negatively affect availability of squid to the California CPS fishery. Without squid, fishermen will increase their take of Pacific sardine. She opined that emergency action was necessary to prevent premature closure of the southern California sardine fishery. The action would be to remove the north/south allocation and create a coastwide quota for the remainder of 2002.

23. Public Comment

Ms. Diane Pleschner, California

In season through the final rule.

Reports and Comments of Advisory Bodies

None.

Dr. Squires (HMSPDT) clarified that the intent of the HMSPDT recommendation was to allow swordfish targeting while data is collected and analyzed. Available data is limited to only three observed trips, he noted the potential for bias that comes from a very small sample size.

Mr. Fougner noted that the MS Vojkovich's proposed alternative would be a substantial challenge for NMFS to implement, and that data indicates sea turtle takes in long line fisheries on the high seas off California. He referred to Chapter 6, page 18. He favors Alternative 2.

Mr. Fougner moved an amendment (Amendment 3) to substitute Alternative 2 relative to long line fishing outside of the U.S. EEZ, Mr. Bohn seconded. Mr. Fougner's rationale was to prohibit target fishing for swordfish. There is concern that long line fishing for swordfish impacts sea turtles. While the HMSPDT noted that West Coast based long line vessels fish in different areas than Hawaii based vessels, the two fisheries use similar fishing strategies and there is a likelihood of similar rates of takes of sea turtles. Fishing through EFPs provided the data to show swordfish targeting does not impact sea turtles, which could provide evidence for allowing the long line fishery to target swordfish.

Mr. Brown asked if there was information currently in the FMP about impacts on protected species from the West Coast based high seas long line fishery. Mr. Fougner noted preliminary data were inadvertently excluded. He reviewed the raw numbers – 3 trips observed; 59 sets; 49,000 hooks; 8 sea turtles (7 dead, 1 released injured); 24 albatross (12 dead).

Prior to voting on Mr. Fougner's amendment, it was clarified which measures would be applicable under high seas long line Alternative 3. On page 9-80 (HMS FMP, September 2002), requirements 1, 4, and 8 would apply to West Coast based long line vessels fishing on the high seas. The aim of these measures would be to reduce impacts on protected species while providing opportunity for West Coast based vessels to target swordfish.

Dr. Squires (HMSPDT) clarified that the intent of the HMSPDT recommendation was to allow swordfish targeting while data is collected and analyzed. Available data is limited to only three observed trips, he noted the potential for bias that comes from a very small sample size.

Mr. Fougner recognized it is a small sample size, but eight sea turtles from three trips is potentially significant.

Dr. Squires emphasized that three observed trips did not provide a scientific basis to regulate this fishery.

Dr. Radtke asked for a roll call vote on the Fougner/Bohn amendment (10/29/02; 6:08 pm).

Amendment 3 failed with 2 yes votes (Fougner, Anderson) and 1 abstention (Radtke).

Mr. Fougner noted the HMS FMP should clarify the relationship of the HMS FMP to DGN fishery management under the Marine Mammal Protection Act (MMPA). The Council requested the HMSPDT work with NMFS to ensure the FMP is consistent with MMPA "take reduction plans" and "take reduction team" timing and process requirements. For example, it should be clear that the HMS FMP is not intended to limit the authority of the Secretary of Commerce to achieve the objectives of the MMPA.

Dr. Radtke asked if there was further clarification on the 8 measures under Alternative 3?

Ms. Vojkovich clarified that of the 8 items listed on page 8-30, items 2, 3, 5, 6, and 7 are excluded from the proposed alternative. Items 1, 4, and 8 are included in the motions.
Mr. Brown made a friendly amendment to note that Alternative 3 for long line fishing outside the U.S. EEZ includes requirements identified as 1, 4, and 8 on page 8-30. Ms. Vojkovich and Mr. Anderson agreed to the friendly amendment.

On voice vote – Motion 9 passed.

The Council authorized the HMSPDT to work with contracted staff, NMFS-Southwest Region, and Council staff to finalize the FMP for submission to the Secretary of Commerce; this includes drafting and revising the necessary documents to allow implementation of the recommendations in accordance with Council intent.

It is anticipated the HMS FMP will be submitted to NMFS in early 2003.

Finally, the Council directed staff to include in the FMP transmittal letter information about the critical need for dedicated and sufficient funding for West Coast HMS fishery management. Support is necessary to ensure limited Council resources are not unduly constrained by the staffing, management, and research needs of this new FMP. Moreover, federal and state programs will need additional support to ensure effective implementation of the FMP.

E. Pacific Halibut Management

E.1 Proposed Changes to the 2003 Catch Sharing Plan and Annual Regulations (10/30/02;8:04 am)

E.1.a Agenda Overview

Mr. Chuck Tracy presented the agenda overview.

E.1.b Fishery Report for 2002

Ms. Yvonne de Reynier presented a summary of 2002 Area 2A halibut fisheries to date (Exhibit E.1.b, Supplemental Fishery Report). She also noted NMFS prepared an Environmental Assessment of the proposed changes to the Catch Sharing Plan (Exhibit E.1.b, Supplemental Attachment 3).

Mr. Anderson asked if the language in the catch sharing plan, Section (f)(5)(j)(C), allowed quick transfer of unused quota between recreational subareas. Ms. de Reynier responded that transfers could be made in subareas north of Cape Falcon after an inseason conference call and publishing of the notice in the Federal Register. The Federal Register notice is required because the catch sharing plan does not specify criteria or priorities for transfer between subareas north of Cape Falcon. In areas south of Cape Falcon, transfer does not require notice in the Federal Register because transfer between areas is explicitly governed by the language in the catch sharing plan.

E.1.c State Proposals

ODFW

Mr. Bohn reported that Exhibit E.1.c, Supplemental ODFW Report, is inaccurate. Based on testimony at a recent public hearing and on discussions at this Council meeting, ODFW is proposing to include language allowing inseason transfer of quotas between the Columbia River recreational subarea and the Central Oregon Coast subarea, and preseason transfer between Oregon North Central and South Central recreational subareas. He referred the Council to E.1, Attachment 2, indicating that ODFW was proposing items 1, 2, 3, and 4.

WDFW

Mr. Anderson presented Exhibit E.1.c, Supplemental Revised WDFW Report. He stated his intent to propose the changes on that exhibit pending public testimony and Council discussion. He also recommended the following modified language in the catch sharing plan:
(f)(5)(ii) Flexible inseason management provisions include, but are not limited to, the following: (E) Modification of subarea quotas north of Cape Falcon, OR consistent with the standards in section (f)(5)(i) of this Plan.

Ms. Cooney requested an explanation of Mr. Anderson's proposed language change. Mr. Anderson replied his intent was to provide the ability to transfer unused quota from one subarea to another north of Cape Falcon provided that it meets the subareas management objectives.

Mr. Brown observed that opening the Washington North Coast subarea recreational fishery the 3rd Wednesday in June may result in only 5 days of fishing in some years. Mr. Anderson responded that he was hoping they could get two days fishing out of the proposed allocation (28% of the subarea quota for the June opening).

E.1.d Tribal Proposal and Comments

Mr. Jim Harp made the following comments:

Mr. Chairman, I would like to offer a brief comment on the proposed changes to the catch sharing plan and annual regulations for 2003.

The 2002 Pacific halibut catch sharing plan for Area 2A includes the description for the Treaty Indian fisheries.

The tribes propose no changes be made to the catch sharing plan as it relates to the Treaty Indian allocation of halibut for 2003. That allocation would remain at 35% of the Area 2A TAC, plus the 25,000 lb. adjustment be transferred from the non-Treaty Area 2A halibut allocation, as specified in the Stipulation and Order of the U.S. District Court, Subproceeding No. 92-1.

The tribes continue to support the efforts in the non-Indian fisheries that allow retention in non-directed fisheries as this will reduce discards and thus wastage of a valuable resource.

E.1.e Reports and Comments of Advisory Bodies

GAP

Mr. Frank Warrens provided Exhibit E.1.e, Supplemental GAP Report.

E.1.f Public Comment

None.

E.1.g Council Action: Adopt Proposed Regulation Changes for 2003

Mr. Bohn moved and Mr. Brown seconded the following motion (Motion 10):

1. Develop framework language allowing inseason action to transfer quotas between the Columbia River and Central Oregon Coast sport subareas.
2. Develop framework language allowing preseason transfer of quotas between the North Central and South Central Oregon coast sport subarea May (spring) seasons to meet the plan’s objective of setting equal number of fixed fishing days for the two subareas.

3. Extend the recreational season for all subareas south of Cape Falcon from September 30 to October 31.

4. Change language defining the central Oregon recreational fisheries to spring and summer seasons rather than May and August seasons, and include the months of May to July in the spring season and the months of August to September (or October) in the summer season.

Motion 10 passed.

Mr. Anderson moved (Motion 11) to adopt the proposals contained in Exhibit E.1.c, Supplemental Revised WDFW Proposal for modifications to the Pacific Halibut Catch Sharing Plan for the 2003 Washington recreational fisheries. Mr. Alverson seconded the motion. Motion 11 passed.

Mr. Alverson moved (Motion 12) to adopt the proposals as shown in Exhibit E.1.g, Supplemental Washington Motion. Mr. Anderson seconded the motion.

Mr. Alverson noted that in 2001 the Council set a ratio of 80 pounds (dressed weight) halibut to 1,000 pounds (dressed weight) sablefish, and 31 participants landed 31,000 pounds of halibut. In 2002 the Council set a ratio of 150 pounds halibut to 1,000 pounds sablefish, and 41 participants landed an estimated 65,000 pounds of halibut. In 2003 the fixed gear fishery will be prohibited inside 100 fm which is likely to reduce the incidental catch of halibut in the sablefish fishery, although the sablefish allocation is 37% greater than in 2002. Based on recent performance of the fleet, it is unlikely the fixed gear sablefish fishery will exceed its proposed halibut allocation of 70,000 pounds in 2003.

Motion 12 passed.

Mr. Harp indicated there were no changes proposed for the treaty Indian halibut fishery.

Mr. Anderson moved (Motion 13) to change catch sharing plan section (f)(5)(i)(C) as follows:

If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea, consistent with the standards in section (f)(5)(i)(C) of this plan. Mr. Cedergreen seconded the motion. Motion 13 passed.

F. Coastal Pelagic Species Management

F.1 NMFS Report (10/30/02; 8:54 am)

F.1.a Agendum Overview

Mr. Svein Fougner referred to two NMFS reports in Council briefing materials.

Exhibit F.1, Supplemental NMFS Report 2 –

Southwest Region Report on Coastal Pelagic Species Fisheries Management

The National Marine Fisheries Service (NMFS) was able to expedite the processing of the sardine emergency reallocation as requested by the Council to be effective on September 20, 2002. This should not be taken as a precedent for future actions. There will be no such emergency action in 2003 as the Council will have considerable time to consider and decide whether a change in the allocation process or criteria is warranted and for NMFS to act on any proposals to that effect.
F.3.a Agendum Overview

Mr. Waldeck referred the Council to Exhibit F.3 for an overview of the matter before the Council. He noted that the CPSAS had developed recommendations for amending the FMP allocation framework. Mr. Fougner will report NMFS findings on the amendment process issues, Dr. Hill will report the CPSMT response to Council direction. He finished by reminding the Council that scheduled action was consideration of amending the FMP to address annual allocation of the Pacific sardine harvest guideline.

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O/30/02; to project when a subarea was close

to achieving its allocation, based on this projections the subarea’s directed fishery would be closed and the incidental allowance would be applied using the remainder of that subarea’s allocation.

Mr. Anderson disagreed and said it is inconsistent with his motion. He clarified that his motion was for the amount caught under the incidental allowance to come from the overall harvest guideline, the incidental allowance would not be constrained to a specific subarea.

Mr. Fougner noted that under Mr. Anderson’s motion the incidental allowance used in one subarea would allow harvest of fish that had been allocated to the other subarea. Mr. Anderson concurred that whatever small amount necessary for incidental harvest would come from the total coastwide harvest guideline.

Motion 17 passed. Ms. Vojkovich and Mr. Caito voted no.

F.3 Consideration of Long-Term Sardine Harvest Allocation (1

2003? Could changing the reallocation date be done as a routine management measure?

Ms. Cooney did not think that it could be done as a routine management measure because it was not part of the current allocation framework. She suggested that if the Council wanted to consider changing the allocation framework, then it should proceed with the proposal for the long-term change (Agenda item F.3).

The Council continued to discuss how to avoid a re-occurrence of the 2002 emergency in 2003. If the allocation framework is to be changed it will have to be through the rulemaking process, which could include the need for 3 Council meetings.

It was noted that the November Council meeting would count as the first of the 3 meetings necessary under the FMP requirements for rulemaking actions.

Mr. Anderson moved (Mr. Alverson, seconded) (Motion 17) to allow 45% of the total weight of the landed catch to be sardines in other CPS directed fisheries. This incidental allowance would be structured the same as the incidental allowance put in place in September 2002.

Mr. Fougner asked if the incidental allowance would only be applied if a subarea reached its allocation and the directed fishery in that subarea is closed? Mr. Anderson concurred.

Ms. Vojkovich asked if the incidental amount harvested would be provided by the other subarea allocation, since the total harvest guideline can not be exceeded? The answer was yes. She asked if it would be possible to establish a set aside, off the top, to be used to cover the incidental allowance?

Mr. Waldeck requested clarification of the intent of the incidental allowance. It is not to establish a set aside amount off the top at the beginning of the season. Rather the intent is to have NMFS monitor closely each of the subarea fisheries and when it becomes apparent a subarea would reach its allocation then the incidental allowance will be triggered. That is, the incidental allowance would come from the portion projected to remain of a subarea’s allocation not from the total coastwide harvest guideline.

Mr. Fougner concurred with Mr. Waldeck’s description. NMFS would try an abbreviated process that the result would be sub-optimal and need further work down the road. It would be best to take the time to create a meaningful and workable allocation framework.

Thus, given that a major change to the allocation framework could take considerable time, what options does the Council have to avoid problems in

National Marine Fisheries Service Views on Process Requirements for Changing Sardine Allocation

The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) sets forth the current 1/3 north- 2/3 south Pacific sardine allocation with the October 1 reallocation in equal shares of unused Pacific sardine harvest guideline with the dividing line at Piedras Blancas. The FMP clearly contemplated there would be future consideration and likely adoption of changes in one or more of the allocation factors (shares, timing, dividing line). Section 2.1.4 lists factors to take into account when considering allocations; section 4.8.1 describes the procedure for annual specifications, including allocations. Section 5.2 establishes the allocation process for Pacific sardine but then provides that “Nothing in this FMP precludes additional allocations based on other geographic areas of other factors developed under the authority of this FMP.” Thus, it apparently was expected the Pacific Fishery Management Council (Council) would revisit this topic as more experience and information were gained under the FMP.

National Marine Fisheries Service (NMFS) views adjustment of the allocation factors as an action that can be taken under the Socioeconomic Framework of the FMP (section 2.1.3). This essentially calls for two Council meetings with NMFS to determine the appropriate method of implementation, which would be notice and comment rulemaking (i.e., proposed and final rules). NOAA Fisheries believes that allocation issues are very important and thus do not fit well in “abbreviated rulemaking.” Further, recent court decisions indicate that abbreviated rulemaking should be avoided. Therefore, notice and comment rulemaking would be used.

In the current situation, the process for adjusting the Pacific sardine allocation would be:

November 2002 Directions to team for analysis of options.
March 2003 First Council consideration of options; clear for public review.
April 2003 Final Council action and submission of documents to NOAA Fisheries.
May 2003 Proposed Rule published for public review.
July 2003 Final Rule published.
August 2003 Adjustment implemented (assuming approval).

This would provide for the new approach to be in place well before the end of the season. Note, however, that if the northern fishery accelerates its landings, there could still be a chance that its “allocation” would be taken before the new allocation is in place. This is not very likely.

Under this approach, the 2003 fishery would begin with the current allocation. Any change in the allocation could be implemented inseason through the final rule.

F.1.b Reports and Comments of Advisory Bodies

None.

F.1.c Public Comment

Ms. Diane Pleschner, California Wetfish Producers Association; San Pedro, California

Ms. Pleschner asserted that an El Nino was developing off the West Coast, which could negatively affect availability of squid to the California CPS fishery. Without squid, fishermen will increase their take of Pacific sardine. She opined that emergency action was necessary to prevent premature closure of the southern California sardine fishery. The action would be to remove the north/south allocation and create a coastwide quota for the remainder of 2002.

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Mr. Fougner noted there was nothing in the FMP nor regulations that enabled a shift to a coastwide quota.

F.1.d Council Discussion on NMFS Report for CPS Management

Based on Ms. Pleschner's testimony, the Council discussed the need for and ability to take emergency action. After a discussion of what constitutes an emergency, the likelihood that NMFS would not declare an emergency in this instance, and the scant data indicating an El Nino was developing, the Council took no action and moved on to other matters. See meeting tape for details of the discussion.

F.2 Pacific Sardine Stock Assessment and Harvest Guideline for 2003 (10/30/02; 9:18 am)

F.2.a Agendum Overview

Mr. Dan Waldeck provided an overview of the agenda topic F.2. He reviewed the briefing materials and outlined scheduled Council action. That is, adoption of the Council recommendation for the 2003 Pacific sardine fisheries harvest guideline.

F.2.b Report of Stock Assessment Team

Dr. Ray Conser provided the stock assessment and harvest guideline recommendation, Exhibit F.2.b.

The Council discussed with Dr. Conser the need to improve estimates of sardine recruitment. Historically, spotter planes logsbooks was the principal recruitment index. However, more recently, spotter pilots are putting little effort in searching for sardine schools (switching to spotting for bluefin tuna fishery). Thus, the recruitment index is down weighted in the current model. It was suggested that incentives for spotter pilots to conduct directed surveys for sardines would be very useful. This will be added to the Council's research and data needs list.

The Council and Dr. Conser also discussed the need for improved coastwide assessment of Pacific sardine throughout its range. The relationship of sea surface temperature to available harvest through the harvest guideline control was discussed.

F.2.c Reports and Comments of Advisory Bodies

SSC

Mr. Tom Jagielo provided Exhibit F.2.c, Supplemental SSC Report.

Dr. Ramon Conser presented the results of the Pacific sardine stock assessment and harvest guideline (HG) for 2003. The assessment model and data analysis are similar to those used in previous years. The analysis included the most recent fishery and survey data. The 2002 sardine stock biomass estimate is approximately one million mt and the recommended HG is 110,908 mt. The SSC endorses the use of this HG for the 2003 Pacific sardine fishery. The 2003 HG is slightly lower than the 2002 HG. However, the actual landings in recent years have been less than the HG, and it is expected the 2003 fishery landings will not be constrained by this reduction in HG. Dr. Conser noted that in future years, however, U.S. fisheries may be constrained by Council HG's if, (1) sea-surface temperature continues to decline – invoking a reduction in the exploitation rate as specified in the FMP's environmentally-based harvest control rule and/or (2) the U.S. sardine fisheries continue to grow at rates of increase comparable to those observed over the last few years. In addition, when viewed on a stock-wide basis, an increase in Mexican harvest to its historic level may affect the U.S. fishery.

A new sardine model and assessment are needed that more thoroughly incorporate the expansion of sardine from its core area (central California through Baja California, Mexico) northward to include Oregon, Washington, and British Columbia, Canada. In December 2002, the Third Trinational Sardine Forum will meet in San Pedro, California. This forum will encourage continuing work on assembling a coastwide sardine database that could be used in a new stock assessment. Fishery independent surveys (as well as continued fishery sampling) from Oregon, Washington, and British Columbia are needed to support new model development. The SSC recommends that funding be secured to conduct simultaneous surveys off Oregon/Washington and the traditional survey area off central/southern California.

The sardine assessment should undergo a STAR panel review in conjunction with the Pacific mackerel assessment in September 2003. The STAR panel would review new model development using data through 2002. The new sardine and revised mackerel models could then be used to establish HGs for the respective 2004 fishing seasons. The SSC will develop terms of reference for the coastal pelagic species STAR panel review for Council consideration at its March 2003 meeting.
CPSMT

Dr. Kevin Hill provided Exhibit F.2.c, Supplemental CPSMT Report.

The Coastal Pelagic Species Management Team (CPSMT) recently met with Dr. Ray Conser (National Marine Fisheries Service) to review results from the latest Pacific sardine stock assessment, which will be used to set a harvest guideline for the 2003 season. The CPSMT concurs with the stock assessment team’s analyses, and recommends the Council adopt a harvest guideline of 110,908 metric tons (mt) for the 2003 season.

The CPSMT held a brief discussion on establishing a set-aside and tolerance level for sardine caught incidentally in other CPS fisheries during 2003. The CPSMT defers to the CPS Advisory Subpanel to recommend incidental set-aside and tolerance levels. The CPSMT notes that incidental catch allowances of up to 45% by weight may be established under the CPS fishery management plan (FMP).

The CPSMT briefly discussed planning for a stock assessment review (STAR) panel in September of 2003. The current plan calls for the Pacific sardine and Pacific mackerel stock assessment data and models to be reviewed and to have results available for management of the 2004 sardine fishery and the 2004-2005 mackerel fishery. The CPSMT will appoint a member to participate on the STAR panel, should the event occur.

While the CPSMT considers the current sardine assessment to be based on the best available information, more data on West Coast sardine stock is clearly needed. Development of an improved West Coast sardine assessment model will depend upon gathering fishery-dependent and fishery-independent data for the northern portion of the stock. Fishery sampling by the states of Oregon and Washington is ongoing, but fishery-independent data for the Pacific Northwest region is sparse. Future research efforts should include adult biomass surveys using trawl gear, sonar, and spotter planes, as well as indirect estimates of spawning stock biomass using plankton nets and egg pumps. The CPSMT urges the management bodies and industry to actively pursue funding, which will be vital to improving the sardine assessment.

CPSAS

The Coastal Pelagic Species Advisory Subpanel (CPSAS) met October 8, 2002 in Long Beach, California. At the meeting, the CPSAS heard a presentation from Dr. Ray Conser reviewing the current Pacific sardine stock assessment and the recommended harvest guideline of 110,908 metric tons. The CPSAS unanimously agreed the stock assessment is as complete as the best available science and the current model allows. The CPSAS supports the recommended harvest guideline which is based on the formula defined in the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The CPSAS is anxious to transition to the new model which will more completely incorporate fishery dependent and fishery independent data from the Pacific Northwest fisheries. Furthermore, the CPSAS voices unanimous support for the proposed coast wide survey and would recommend to the Council that they encourage National Marine Fisheries Service (NMFS) to fund that survey.

On the issue of allocation for the 2003 season, the CPSAS finds that language in the FMP and implementing regulations for Amendment 8 (the CPS FMP) published in the Federal Register are not clear on whether the annual allocation of sardine is a discretionary or mandatory action. There seems to be some flexibility in both the FMP language and the implementing regulations on this issue. If setting the annual allocation is a discretionary action, a majority of the CPSAS recommends to the Council that they recommend that NMFS not implement the two-thirds, one-third allocation system for the 2003 season. The majority of the CPSAS agreed that for 2003 the harvest guideline is of a sufficient amount that no one sector will be hurt by a coast-wide harvest guideline. While the CPSAS recognizes that a parallel process determining future allocation management for the sardine fishery is ongoing, it is likely that either a full FMP amendment or regulatory amendment will not be in effect prior to the 2003 season getting started in the Pacific Northwest. If the status quo allocation system is implemented again for the 2003 season, the fisheries in Washington, Oregon, and northern California will face the same shutdowns and economic hardships as they faced in 2002. A majority of the CPSAS wishes to avoid a repeat situation of what occurred in 2002 and encourages the Council to take whatever action necessary to avoid this same problem from occurring during the 2003 season.

A minority of the CPSAS recommends the Council exercise precaution at this time and not encourage further expansion of the sardine fishery in the Pacific Northwest until research is done on that segment of the stock to determine its relationship to the resource as a whole, in light of the following:

- The degree of uncertainty and lack of knowledge expressed in the current stock assessment. Assessment limitations include lack of understanding of stock structure and migration rates; further, current fishery independent data are limited to central and southern California.
- The finding that sardine population growth appears to have leveled off. Precaution is important at this time, considering the natural decline of the resource in cold-water cycles.
- The fact that scientists do not know the impact of increasing the harvest of large fish in the Pacific Northwest and what harm, if any, that will cause to the biomass.

Following the CPSAS report, Mr. Brown asked for clarification about whether the annual allocation was mandatory or discretionary. Mr. Fougnier responded that NMFS interprets it as a mandatory action, i.e., the
FMP identifies the annual allocation, specifies the amounts allotted to each subarea, and includes a reallocation nine months after the start of the fishery. Thus, for the 2003 sardine fishery the season would start with a 1/3 allocation to the northern subarea and 2/3 to the southern subarea.

F.2.d Public Comment

Mr. Bob Seidel, Astoria Holdings; Astoria, Oregon
Mr. Ryan Kapp, cp fisherman; Bellingham, Washington
Ms. Diane Pleschner, California Wetfish Producers Association; San Pedro, California
Mr. Joe Childers, WGOAI; Seattle, Washington

F.2.e Council Action: Adopt Harvest Guideline for 2003

Ms. Vojkovich moved (Mr. Caito, seconded) Motion 14 to recommend a 2003 sardine harvest guideline of 110,908 mt.

Motion 14 passed, unanimous voice vote.

Ms. Vojkovich moved (Mr. Caito, seconded) Motion 15 to have the Council draft a letter to NMFS detailing the need for coastwide research on Pacific sardine and the sardine fishery off the West Coast. The letter should note the critical need for continuous, dedicated funds to assess and manage Pacific sardine, noting this is a high priority for the Council.

Motion 15 passed, unanimous voice vote.

Ms. Vojkovich moved and Mr. Caito seconded a motion (Motion 16) to establish a STAR Panel and request funding for that panel (as described in the SSC statement).

Mr. Fouger noted the Council has already moved to establish a CPS STAR panel. The question is whether NMFS will be able to help fund the STAR panel. Thus, given previous Council action (September 2002), Motion 16 was moot and was withdrawn.

Mr. Waldeck noted the Council had adopted a harvest guideline recommendation, but had not dealt with incidental allowance recommendations nor allocation of the 2003 harvest guideline.

Mr. Anderson spoke to the FMP allocation formula, which specifies the portions of the harvest guideline that will be allocated to each subarea. He noted that, absent any change, the FMP allocation formula would be implemented by NMFS for the 2003 sardine fishery. Ms. Cooney confirmed Mr. Anderson’s characterization.

Mr. Bohn asked NMFS what options the Council had if it the northern fishery was likely to harvest its allotment of the harvest guideline prior to the October 1 reallocation. That is, if prior to June 2003 landings information indicated the northern fishery would close prior to October 1, would NMFS entertain declaration of an emergency reallocation (similar to 2002)?

Mr. Fouger said it was in the Council’s purview to consider the circumstances and request emergency action. Based on available information, NMFS would determine if emergency action was warranted. NMFS would not consider emergency action unless it was initiated by a Council recommendation.

The Council discussed the desire to avoid a repeat of the 2002 situation, contingencies that might be available, and the timing of the respective fisheries relative to Council/NMFS action. Mr. Fouger indicated that NMFS would not likely agree to a request for emergency action in 2003 because the Council will have had time to resolve this problem.

Mr. Anderson summarized his view of the situation: the FMP provides the authority to make an allocation; it makes an allocation of 66:33; that is what is in place; the FMP defines changes to the allocation as not a routine management measure. Thus, the Council will need 2 or 3 meetings to develop a change to the allocation framework. He opined that, given the controversial nature of allocation, a full rule-making process might be necessary. He suggested that if the Council attempted to change the allocation framework through...
an abbreviated process that the result would be sub-optimal and need further work down the road. It would be best to take the time to create a meaningful and workable allocation framework.

Thus, given that a major change to the allocation framework could take considerable time, what options does the Council have to avoid problems in 2003? Could changing the reallocation date be done as a routine management measure?

Ms. Cooney did not think that it could be done as a routine management measure because it was not part of the current allocation framework. She suggested that if the Council wanted to consider changing the allocation framework, then it should proceed with the proposal for the long-term change (Agenda item F.3).

The Council continued to discuss how to avoid a re-occurrence of the 2002 emergency in 2003. If the allocation framework is to be changed it will have to be through the rulemaking process, which could include the need for 3 Council meetings.

It was noted that the November Council meeting would count as the first of the 3 meetings necessary under the FMP requirements for rulemaking actions.

Mr. Anderson moved (Mr. Alverson, seconded) (Motion 17) to allow 45% of the total weight of the landed catch to be sardines in other CPS directed fisheries. This incidental allowance would be structured the same as the incidental allowance put in place in September 2002.

Mr. Fougner asked if the incidental allowance would only be applied if a subarea reached its allocation and the directed fishery in that subarea is closed? Mr. Anderson concurred.

Ms. Vojkovich asked if the incidental amount harvested would be provided by the other subarea allocation, since the total harvest guideline can not be exceeded? The answer was yes. She asked if it would be possible to establish a set aside, off the top, to be used to cover the incidental allowance?

Mr. Waldeck requested clarification of the intent of the incidental allowance. It is not to establish a set aside amount off the top at the beginning of the season. Rather the intent is to have NMFS monitor closely each of the subarea fisheries and when it becomes apparent a subarea would reach its allocation then the incidental allowance will be triggered. That is, the incidental allowance would come from the portion projected to remain of a subarea’s allocation not from the total coastwide harvest guideline.

Mr. Fougner concurred with Mr. Waldeck’s description. NMFS would try to project when a subarea was close to achieving its allocation, based on this projections the subarea’s directed fishery would be closed and the incidental allowance would be applied using the remainder of that subarea’s allocation.

Mr. Anderson disagreed and said it is inconsistent with his motion. He clarified that his motion was for the amount caught under the incidental allowance to come from the overall harvest guideline, the incidental allowance would not be constrained to a specific subarea.

Mr. Fougner noted that under Mr. Anderson’s motion the incidental allowance used in one subarea would allow harvest of fish that had been allocated to the other subarea. Mr. Anderson concurred that whatever small amount necessary for incidental harvest would come from the total coastwide harvest guideline.

Motion 17 passed. Ms. Vojkovich and Mr. Caito voted no.

F.3 Consideration of Long-Term Sardine Harvest Allocation (10/30/02; 11:32 am)

F.3.a Agendum Overview

Mr. Waldeck referred the Council to Exhibit F.3 for an overview of the matter before the Council. He noted that the CPSAS had developed recommendations for amending the FMP allocation framework. Mr. Fougner will report NMFS findings on the amendment process issues, Dr. Hill will report the CPSMT response to Council direction. He finished by reminding the Council that scheduled action was consideration of amending the FMP to address annual allocation of the Pacific sardine harvest guideline.
Mr. Fougner referred to the report NMFS Views on Process Requirements for Changing Sardine Allocation, Exhibit F.1. Supplemental NMFS Report 1 (see above under agendum F.1). He noted that there may be flexibility in how quickly NMFS can process a Council recommendation for amending the allocation framework. He emphasized that it was critical the Council fulfill its process obligations for developing a regulatory amendment, including three Council meetings, scoping of alternatives, analysis of alternatives, public review, and Council preliminary and final action.

F.3.b Report of the Coastal Pelagic Species Management Team

Dr. Kevin Hill read Exhibit F.3.b, Supplemental CPSMT Report.

Mr. Fougner asked about the schedule for completing Council action, could the CPSMT have a preliminary analysis prepared in time for the March 2003 Council meeting?

Dr. Hill was uncertain, but assured the Council the CPSMT would make a concerted effort.

Mr. Fougner clarified that NMFS envisioned this action occurring through a regulatory amendment rather than an FMP amendment.

In response to a question about the need to control rapid capacity growth in the expanding northern fisheries, Dr. Hill responded that the CPSMT discussed the issue, but limited entry for the northern subarea or modification of the current limited entry fishery is not part of this proposed management action.

F.3.c Reports and Comments of Advisory Bodies

None.

F.3.d Public Comment

Mr. Lars Malony, Pacific Seafood Group; Portland, Oregon
Ms. Diane Pleschner, California Wetfish Producers Association;
Mr. Jerry Thon, Astoria Holdings; Astoria, Oregon
Mr. Bill Clingan, Ocean Gold Seafoods; Westport, Washington

F.3.e Council Action: Consider Need and Process for Long-Term Allocation Plan

Ms. Vojkovich moved (Mr. Caido, seconded) Motion 18 to direct the CPSMT to develop analysis for allocation alternatives that include (four options):

- status quo
- no subarea allocation (or a coastwide allocation).
- move the northern/southern subarea line to coincide with the CPS limited entry line at Pt. Arena, California; change the reallocation date from October 1 to September (or August); and a December 1 reallocation of the remaining harvest guideline to a coastwide quota.
- change the reallocation date from October 1 to September (or August); and a December 1 reallocation of the remaining harvest guideline to a coastwide quota.

Mr. Anderson asked if there was an alternative that would implement 3 subarea allocations. The response was, no.

Mr. Anderson asked if the alternative to move the subarea dividing line to Pt. Arena would maintain the 2/3 to 1/3 allocation? The response was, yes.

Mr. Alverson asked if the alternative to move the subarea dividing line to coincide with the limited entry line would affect the current limited entry fishery?

Under the FMP, the annual harvest guideline is shared between the limited entry and open access fisheries. There are no provisions allocating quota between the two fisheries.
It was explained that, currently, the limited entry line is at 39 degrees N latitude, and the subareas are divided at 35 degrees 40 minutes N latitude. By moving the subarea line up to the limited entry line, the limited entry fishery would be allocated the southern subarea allocation. The amount of fish allocated to the northern subarea would not change (it would still be 1/3rd of the total harvest guideline), but the amount of fishing area available to the CPS open access fleet would be reduced.

Mr. Bohn suggested including evaluation of 3 subareas, each with a separate allocation. He also suggested that a 50:50 split of the harvest guideline be considered. Essentially, he wanted to know whether alternatives should be added or should the Council provide CPSMT flexibility to add reasonable alternatives revealed through the analysis.

Dr. Hill, in answering Mr. Bohn's question noted that in developing the analysis the CPSMT may discover other reasonable alternatives. Thus, it would be helpful if the CPSMT had the flexibility spoken to by Mr. Bohn.

Mr. McInnis asked Ms. Vojkovich if her motion included consideration of bycatch and how it relates to allocations?

Ms. Vojkovich noted that the FMP allocation considerations (detailed on the CPSMT Report, F.3.b) should be included in her motion. Consideration of bycatch and incidental catch, as noted by Mr. McInnis, should also be included. Mr. McInnis' suggestion was added as a friendly amendment.

Dr. McLsaac asked if it was appropriate (in a NEPA context) to limit the number of alternatives at this time?

Ms. Cooney noted NEPA requires analysis of a reasonable range of alternatives. If certain reasonable alternatives are not fully analyzed, there needs to be an explanation as to why these alternatives are not included in the final set of alternatives.

Mr. Brown stated that many of the alternatives in the motion were simply variations on status quo. He opined that 3 subareas should be considered.

Mr. Anderson favored the motion. He requested adding a sub-alternative for different allocation percentages:

- 66:33; and
- 50:50.

Mr. Anderson also noted the proposed schedule seemed ambitious (analysis and preliminary action in March 2003 and a final decision in April 2003, with implementation by August 2003). Because of this, he requested that the top priority of the analysis be on moving forward of the reallocation date from October 1 to September 1 (or August 1).

Mr. Anderson's suggestion was included as a friendly amendment.

Mr. Bohn then formally suggested that the Council provide the CPSMT the flexibility to add reasonable alternatives revealed through the analysis.

This was accepted as a friendly amendment to Motion 18. Motion 18 passed; unanimous voice vote.

The final motion (Motion 18) was as follows:

The management alternatives are:

1. Status quo.
2. No allocation – institute a coastwide harvest guideline.
3. Move northern boundary of southern subarea from 35°40’ to 39° N latitude, change reallocation date from October 1 to September 1 (or August 1), and provide for December 1 reallocation to a coastwide harvest guideline.
4. Change reallocation date from October 1 to September 1 or (August 1), and provide for December 1 reallocation to a coastwide harvest guideline.
Mr. Robinson clarified the motion intended the declarations apply to all limited entry, open access line vessels, and exempted trawl vessels, specifically not applicable to salmon troll or crab vessels. Mr. Boydstun stated that was not what his second intended. Mr. Boydstun thought declarations would be required for limited entry and exempted trawl vessels. Including open access vessels off California adds many vessels and gear types in addition to line gear. Mr. Boydstun would like to get a pilot program started without being too ambitious in the first year by extending the declaration requirement to fixed gear open access vessels. He withdrew his second to Motion 22.

Mr. Anderson then seconded Motion 22.

Mr. Alverson asked if the open access DTL fishery was restricted to fishing outside of 100 fm and if those vessels had to declare their intentions or have a VMS unit on board.

Mr. Robinson said these vessels do not have to have a VMS unit on board or declare their intent. Mr. Anderson agreed with the comments that the Council needs a pilot program starting with limited coverage. He stated open access line fisheries and the closures inside 100 fm have difficult enforcement issues that the Council cannot address at this meeting. He suggested a federal permit system to identify and manage the size of the open access fleet and what they are targeting. He said the open access fleet is huge when we talk about all the different sectors that can land under the current groundfish regulations. We need to make sure that we have compliance. Mr. Anderson recommended VMS systems on limited entry vessels that actively fish and a declaration system for limited entry vessels and open access vessels that would appear to be trawling. Perhaps we could task the EC or the ad hoc VMS Committee to figure out a recommendation on other open access sectors.

Mr. Robinson asked Mr. Anderson if he is proposing a friendly amendment to go back to the language of requiring declarations for limited entry and exempted trawl vessels.

Mr. Anderson replied yes and since Mr. Anderson seconded the motion the friendly amendment to Motion 22 was accepted.

Dr. McLsaac stated the motion on the floor, as seconded by Mr. Anderson, requires declarations for limited entry, exempted trawl, and open access line vessels, but excludes salmon and crab vessels.

Mr. Robinson asked if the second intended to drop open access line vessels from the motion. Mr. Anderson said yes.

Ms. Cooney clarified that limited entry vessels are required to carry VMS units if actively fishing on the West Coast.

Dr. McLsaac asked if the motion is intended to apply to the entire West Coast EEZ.

Mr. Robinson said the declaration would apply to any limited entry or exempted trawl vessel intending to fish in a closed area, coastwide.

Mr. Anderson reminded the Council of the limited enforcement capabilities regarding the group of vessels in the open access DTL fleet that need to comply with that 100 fm closure but are not part of the current motion. Mr. Brown agreed with Mr. Anderson about the open access issues. He wanted to make sure that the provisions of the motion would not go into effect on January 1, 2003.

Ms. Cooney said this package would be implemented through the proposed and final rule making process. These rules will not likely be effective prior to the summer of 2003.

Mr. Robinson agreed with Mr. Anderson and Mr. Brown’s comments about the open access fishery and stated his intent to speed up the process of requiring federal permits and capacity reduction in the open access fleet when we get to the two-year review of the groundfish strategic plan.

G. Groundfish Management

G.1 NMFS Report (10/31/02; 2:30 pm)

G.1.a Agendum Overview (Including Update on 2003 Regulations and U.S./Canada Whiting Meeting)

Bill Robinson reviewed the following NMFS regulatory activities since the September meeting:

- California Flatfish EFP was approved for the period of October - December, 2002.
- Council recommended 2002 inseason adjustments were published in the Federal Register on October 4.
- Pacific whiting Emergency Rule setting the 2002 ABC and OY was extended on October 7.
- Announced closure of the at-sea whiting fishery on October 16th.
- Final rule allowing experimental setnet sablefish landings to count towards sablefish tier qualification on October 24.
- First draft of the 2003 groundfish specification and management measures and Emergency Rule for January-February is completed and out for review.
- Work continues on a proposed rule for Amendment 14 implementation and on Amendment 10 relative to converting shoreside whiting EFPs into permanent regulations.
- Currently drafting proposed regulations and NEPA documents for 2003 VMS requirements.

Mr. Robinson reported on the U.S./Canada Whiting negotiations which were resumed at the request of the Council on October 15-18 in Seattle. David Balton of the State Department was the lead negotiator for the U.S. and did an excellent job preparing for and conducting the talks. Good progress was made on developing a framework for bilateral management including formation a joint technical committee, a scientific review group, and a joint management committee. An annual management framework was discussed by which a coastwide TAC would be agreed to by the joint management committee in consultation with the proposed advisory bodies. Work will continue on whiting allocation between the two countries with a general acceptance of achieving a long term sharing agreement. Dr. Radtke, Dr. McLsaac, and Mr. Anderson also attended the talks and concurred with Mr. Robinson’s report. There was general agreement that the Council should maintain an important role in whiting management.

Dr. Liz Clarke gave an update on NWFSC activities. The cooperative research money has been distributed to collaborators including PSMFC and OSU for a RFP process. The RFPs should be out in December will be advertised on PSMFC and NWFSC web sites. The observer program data are on track and will be available in January. November whiting research survey trips are planned in preparation for the 2003 US/Canada acoustic survey. An archive of stock assessments is being created on the NWFSC web site to facilitate public review. Coordination and data gathering for the 2003 stock assessments is already underway.
New work is being done on multi-species rockfish trends and to expand efforts to include climate data in stock assessments.

G.1.b Reports and Comments of Advisory Bodies
None

G.1.c Public Comment
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California


Mr. Bohn updated the Council on Oregon Fish and Wildlife Commission (OFWC) activity on the 2003 regulations relative to nearshore species management. The OFWC met in October and developed qualifications for a nearshore limited entry permitting process and further defined nearshore locations by the types of species taken. Other aspects of the nearshore plan include: an expansion of the black rockfish commercial management zones, a 16-inch minimum size length for cabezon commercial fisheries, and an incidental allowance of 15 pounds of nearshore species for all vessels without a nearshore permit. The OFWC also recommended a 20% reduction in the Oregon nearshore species caps adopted by the Council in September. ODFW will hold public meetings between now and February to develop nearshore fishing options. The Council is being notified that in March, as a result of this nearshore management process, the OFWC may adopt more restrictive 2003 nearshore management measures than what was adopted by the Council.

Mr. Brown expressed concern that the proposed 20% reduction in nearshore caps will disproportionally affect commercial fisheries requiring major revisions to nearshore management.

Mr. Bohn responded that until specific alternatives are developed it is difficult to analyze specific effects. One of the alternatives is likely to include the management options and rationale adopted by the Council.

Mr. Robinson asked Mr. Boydstun to confirm that California has closed the prawn trawl fishery for the remainder of 2002.

Mr. Boydstun reported the CFGC took emergency action at the August meeting to close the spot prawn trawl fishery effective September 1st. The fishermen went to court and got a restraining order so that fishery was not closed. However, by regulation, the fishery closed on October 31st. The judge agreed with the merits of the proposed closure, but took exception to the public notice process. CDFG will soon file notice on regulation options for managing the spot prawn trawl fishery before the season opens next spring.

Mr. Boydstun also reported that the CFGC met on October 25th and adopted the Council recommendations for 2003 groundfish management measures. It was not an easy process because for some of the fishermen there is an eight-month hiatus from now until July 1, 2003. CDFG will hold a conformance hearing on the CRCA in December in Monterey. Regulations for the CRCA will not likely be in place until March.

Mr. Anderson said WDFW did adopt the regulations for groundfish adopted by the Council for the balance of 2002 and asked about the status of the 2003 spot prawn trawl fishery in Oregon.

Mr. Bohn reported that Oregon eliminated the spot prawn trawl fishery with a one year transition period.

Mr. Anderson asked if the reciprocal agreement on fishing adjacent waters is still in place.

Mr. Bohn confirmed that it was.
Mr. Mike Burner reviewed the situation summary and available documents.

Mr. Harp reported the tribal trawl fishery has 3 or 4 vessels that participate in that fishery in a very restricted area of the north Washington coast. He said at this time he did not see a need to be required to have VMS gear. He understands they would be exempted from this requirement under the current motion.

Mr. Anderson said this motion also applies to our limited entry fixed gear fleet and asked if the tribal fixed gear fleet was covered.

Mr. Harp did not believe that was covered in the motion.

Mr. Robinson stated that his motion did not include tribal vessels that are not limited entry.

Mr. Anderson suggested a friendly amendment requiring the declaration piece of the motion to apply to tribal trawl vessels.

Mr. Harp agreed and Messrs. Robinson and Anderson accepted the friendly amendment.

Messrs. Anderson and Harp stated the tribes and WDFW are working together on sampling programs to help with conservation issues and will work on the details of the declaration requirements as well.

Mr. Donald Hansen, Vice-Chairman, asked for the vote on motion 22. Motion 22 passed.
sanddabs or coastal pelagic species may use no more than 12 hooks (#2 or smaller). Current regulations allow only 5 hooks (#2 or smaller). Additionally, this recreational fishery would be allowed up to two pounds of weight where they are currently limited to one pound.

Motion 20 passed.

Mr. Anderson moved to modify the "L" shaped Yelloweye Rockfish Conservation Area in the 2003 groundfish regulations to match the "C" shaped YRCA (halibut hotspot) as adopted earlier in the meeting under the halibut catch sharing plan agenda item. Mr. Cedergreen seconded the motion. (Motion 21).

Ms. Cooney requested an opportunity for public comment prior to Council action.

Mr. Rod Moore reported that Mr. Culver had discussed this issue with the GAP relative to halibut regulations and there were no objections.

Motion 21 passed.

Mr. Anderson noted that following the 2003 management decisions for groundfish in September additional work would be done relative to the description of the depth-based management lines. WDFW sent out a letter to the groundfish industry and did not receive comments but later learned that Mr. Leipzig tried to refine the lines and found there is additional work that needs to be done. He asked if there was time for the states to provide their comments on these management lines to NMFS.

Mr. Robinson requested NMFS receive something within the next week.

G.3 Status of Vessel Monitoring System (VMS) Plans (10/30/02; 3:46 pm)

G.3.a Agendum Overview

Mr. Mike Burner provided the agenda overview.

G.3.b Report of the Ad Hoc VMS Committee

Mr. Steve Springer reported on the October 11 meeting of the committee and reviewed Exhibit G.3.d, Supplemental Council VMS Considerations and presented Exhibit G.3.a, Supplemental Report of the Ad Hoc VMS Committee.

Mr. Steve Springer, Cpt. Mike Cenci, and Mr. Jim Seger clarified the rationale for the recommendations in the report specifically in regard to VMS coverage. Committee members reported the group's desire to first be able to track those vessels which will be legally fishing in closed areas. Several Council members had concerns about tracking vessels targeting groundfish outside of closed areas. Initially, VMS is recommended to be used to primarily monitor activity within closed areas with the possibility of expanding to other sectors in the future.

G.3.c Reports and Comments of Advisory Bodies

EC

Captain Mike Cenci provided Exhibit G.3.c, Supplemental EC Report.

GMT

Ms. Michele Robinson provided Exhibit G.3.c, Supplemental GMT Report.

GAP (10/31/02; 8 am)

Mr. Rod Moore provided Exhibit G.3.c, Supplemental GAP Report.
G.3.d Public Comment

Mr. Joe Easley, Oregon Trawl Commission; Astoria, Oregon
Mr. Steve Bodnar, Coos Bay Trawlers Association; Coos Bay, Oregon
Mr. Guy Grundmeier, Port San Luis Fishermen's Association; San Luis Obispo, California

G.3.e Council Action: Provide Guidance and Approval for VMS

Mr. Robinson moved and Mr. Boydstun seconded a motion (Motion 22) which recommends that NMFS, in continuing consultation with the EC, continue to prepare and publish a proposed rule followed by a final rule for a pilot VMS program for 2003. The program should require a basic VMS system. Declaration reports would be required from all limited entry, open access, and exempted California halibut and pink shrimp vessels intending to fish inside a closed conservation area. The declaration report would not apply to crab vessels and no landing reports would be required from vessels without VMS. The declaration would be a one-time declaration which would remain in effect until it was changed. When the vessel completes fishing in the zone and intends to switch, a second declaration would be required. For the issue of coverage, all limited entry vessels which actively fish would be required to carry the basic VMS unit. Gear regulations require that only one gear type on board when fishing in the conservation zone and no fishing may occur on that trip which is inconsistent with the regulations of the conservation zone. Also, when transiting a conservation zone trawl gear can remain on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

Mr. Boydstun asked for a friendly amendment. Concerning the declaration reports, he suggested that the motion specify that declarations would be required from limited entry and exempted trawl vessels when fishing in a conservation zone. This provides simpler language and is more comprehensive as it encompasses pink shrimp, California halibut, prawn and sea cucumber vessels. Both the maker and seconder of the motion accepted Mr. Boydstun’s friendly amendment.

Mr. Brown asked Mr. Moore to comment on the motion. Mr. Moore said in the discussions of the ad hoc VMS Committee, declarations were intended for vessels which visually appeared to be trawling in the closed areas. In other words, if enforcement personnel can visually identify during at-sea patrols that a vessel is not engaged in trawl activities, then that vessel would not require a declaration (i.e. salmon trolling vessels). The GAP understood that the phrase ‘open access’ modified the word trawl in the reports. Therefore, only exempted trawl vessels within the open access sector would be required to declare rather than every open access vessel.

Mr. Alverson asked Mr. Robinson to clarify the motion regarding who is required to declare their intent and who will be required to carry a VMS unit.

Mr. Robinson said all limited entry vessels that actively fish will be required to carry a VMS unit. He agreed with Mr. Moore that salmon troll vessels should not be involved in the declaration system. Mr. Robinson asked Mr. Moore to further clarify the discussions of the GAP and the ad hoc VMS Committee.

Mr. Moore stated the ad hoc VMS committee meeting focused on 'look-alike' vessels, those vessels that would visually appear to be trawling in the closed areas. Enforcement needs a quick way to sort which vessels can be visually identified as a non-trawl vessel and those that look like trawl vessels and therefore require a declaration. Mr. Moore stated that he would agree with Mr. Boydstun’s friendly amendment. Extending the declaration system to open access line vessels adds complexity as that is not a readily identifiable set of vessels. A salmon troller or a crab vessel could be out there line fishing for groundfish under the open access regulations. It is not a readily identifiable set of vessels. The GAP recommended a step by step approach initially with possible refinements and expansions of the program in subsequent years. He cannot say the GAP would not fully endorse the declaration requirements as they have been interpreted here today.

Dr. McLsaac said the motion currently includes limited entry and a portion of open access as defined in the friendly amendment as exempted trawl.
Mr. Robinson clarified the motion intended the declarations apply to all limited entry, open access line vessels, and exempted trawl vessels, specifically not applicable to salmon troll or crab vessels.

Mr. Boydston stated that was not what his second intended. Mr. Boydston thought declarations would be required for limited entry and exempted trawl vessels. Including open access vessels off California adds many vessels and gear types in addition to line gear. Mr. Boydston would like to get a pilot program started without being too ambitious in the first year by extending the declaration requirement to fixed gear open access vessels. He withdrew his second to Motion 22.

Mr. Anderson then seconded Motion 22.

Mr. Alverson asked if the open access DTL fishery was restricted to fishing outside of 100 fm and if those vessels had to declare their intentions or have a VMS unit on board.

Mr. Robinson said these vessels do not have to have a VMS unit on board or declare their intent.

Mr. Anderson agreed with the comments that the Council needs a pilot program starting with limited coverage. He stated open access line fisheries and the closures inside 100 fm have difficult enforcement issues that the Council cannot address at this meeting. He suggested a federal permit system to identify and manage the size of the open access fleet and what they are targeting. He said the open access fleet is huge when we talk about all the different sectors that can land under the current groundfish regulations. We need to make sure that we have compliance. Mr. Anderson recommended VMS systems on limited entry vessels that actively fish and a declaration system for limited entry vessels and open access vessels that would appear to be trawling. Perhaps we could task the EC or the ad hoc VMS Committee to figure out a recommendation on other open access sectors.

Mr. Robinson asked Mr. Anderson if he is proposing a friendly amendment to go back to the language of requiring declarations for limited entry and exempted trawl vessels.

Mr. Anderson replied yes and since Mr. Anderson seconded the motion the friendly amendment to Motion 22 was accepted.

Dr. McIsaac stated the motion on the floor, as seconded by Mr. Anderson, requires declarations for limited entry, exempted trawl, and open access line vessels, but excludes salmon and crab vessels.

Mr. Robinson asked if the second intended to drop open access line vessels form the motion. Mr. Anderson said yes.

Ms. Cooney clarified that limited entry vessels are required to carry VMS units if actively fishing on the West Coast.

Dr. McIsaac asked if the motion is intended to apply to the entire West Coast EEZ.

Mr. Robinson said the declaration would apply to any limited entry or exempted trawl vessel intending to fish in a closed area, coastwide.

Mr. Anderson reminded the Council of the limited enforcement capabilities regarding the group of vessels in the open access DTL fleet that need to comply with that 100 fm closure but are not part of the current motion.

Mr. Brown agreed with Mr. Anderson about the open access issues. He wanted to make sure that the provisions of the motion would not go into effect on January 1, 2003.

Ms. Cooney said this package would be implemented though the proposed and final rule making process. These rules will not likely be effective prior to the summer of 2003.

Mr. Robinson agreed with Mr. Anderson and Mr. Brown's comments about the open access fishery and stated his intent to speed up the process of requiring federal permits and capacity reduction in the open access fleet when we get to the two-year review of the groundfish strategic plan.
Mr. Bohn said by deleting the open access line group from the declaration requirements we have moved in the right direction. He also stated that although this may cause an enforcement gap, there are other gaps such as the period between January and the implementation of the pilot VMS program.

Mr. Brown stated he understands and appreciates the comments of Mr. Bodnar and Mr. Grundmeier. He stated he supports the motion because the new management regime will require this enforcement tool.

Mr. Alverson asked if the motion addresses the issue of costs.

Mr. Robinson said the motion did not address this issue because he is not in the position to guarantee or offer that there has been funds identified for this purpose. He recognized that the majority of the systems in operation in other areas of the country are supported by federal funding. His understanding is that NMFS is looking to see if there is a way to fund or contribute to the funding of VMS units, however, we are operating under a continuing resolution. He stated that it is necessary to phased in a VMS to enforce depth-based management and if there is federal funding between now and the time the final rule is implemented the program could be federally funded. However, in the absence of available federal funding, the expectation would be that the vessel operator is responsible for purchasing and installing the VMS unit.

Mr. Alverson asked about the type of units that would be required and the associated costs.

Mr. Robinson said it is the basic unit. There will be a choice of units approved by NMFS that would be made available with different costs involved.

Mr. Alverson suggested including language in the final rule that provides NMFS reimbursement for vessels that purchase equipment prior to the identification of federal funding.

Mr. Robinson said it is not clear whether that is a regulatory issue. However, the Council may wish to expand the motion to recommend that NMFS fund the program or reimburse expenses as long as funding is available.

Mr. Alverson asked for a friendly amendment to encompass Mr. Robinson’s suggestion on funding. The maker and seconder of the motion agreed to the friendly amendment to motion 22.

Mr. Springer explained NMFS will soon conduct a process by which specific VMS equipment that meets the VMS standards will be identified for use in West Coast groundfish fisheries. He advised against researching units, even those units approved for VMS programs in other parts of the country, because no units or systems have yet been identified specifically for the West Coast. He also stated that part or the process will be to inform the public as to what equipment has been approved for use and what costs are associated with that equipment.

Mr. Boydstun asked for clarification on the declaration requirement for exempted trawl gear in the motion.

Mr. Robinson said if you are fishing with exempted open access trawl gear in the California halibut or pink shrimp fishery you have to declare. The declarations apply to exempted trawl fishing and was not intended to apply to HMS fishing.

Dr. David Hanson, noted under G.3.b, the EC report states that under a declaration, no fishing can occur on that trip which is inconsistent with the regulations of the closed area. He asked if this means that after making a declaration and trawling in the closed area a vessel would have to return to port, land their catch and make a second declaration before Albacore fishing.

Cpt. Cenci clarified the EC recommendation was originally intended to prevent a vessel from participating in several different trawl fisheries on one trip (i.e., mid-water and deep-water gear on board).

Mr. Moore spoke to the GAP statement recommendations asking that the provision would allow a vessel, following a declaration, to legally trawl in the closed area and then while at sea, switch to another legal non-trawl gear type without returning to port. He felt if a second declaration for this activity is necessary, the vessel should be allowed to make the second declaration without returning to port.
Ms. Cooney clarified that if a vessel declares its intent to legally trawl in the closed area, that vessel may not participate in any other fishing activity on that trip that is inconsistent with the regulations of the closed area.

Cpt. Cenci and Ms. Cooney agreed with the example that if a vessel declares the intent to legally fish mid-water gear in the closed area, that vessel may switch to albacore fishing on the same trip without a second declaration. However, if that same vessel wanted to switch from midwater trawl to DTS trawl, that vessel would need to return to port, land their catch, switch trawl gears, and make a second declaration.

Mr. Robinson suggested the Council could make general recommendations to NMFS on the scope and direction of this pilot program. He stated it might be appropriate to have the ad hoc VMS committee meet and work with NMFS on drafting the specific language for the proposed rule.

Mr. Brown asked if limited entry vessels regardless of fishing strategy would be required to carry an operating VMS unit. Cpt. Cenci confirmed this provision.

Mr. Alverson asked Mr. Springer when the VMS units for this program may be identified and stated that advanced notice for the fleet would be helpful (January).

Mr. Springer said it would be around February or March, 2003.

Mr. Alverson said that is too late. He requested that NMFS let the industry know as soon as possible - at least by January.

Dr. McIsaac asked when people would have to have VMS equipment on their boat.

Ms. Cooney said the final rule would specify when the equipment needs to be onboard which would allow at least a 30-day cooling off period. This date is difficult to identify at this meeting so the motion would not specify a start date.

Mr. Burner asked if the motion includes tribal trawl fisheries and whether the Council wishes to address comments from the GMT concerning the use of the collected data for purposes other that enforcement.

Mr. Harp reported the tribal trawl fishery has 3 or 4 vessels that participate in that fishery in a very restricted area of the north Washington coast. He said at this time he did not see a need to be required to have VMS gear. He understands they would be exempted from this requirement under the current motion.

Mr. Anderson said this motion also applies to our limited entry fixed gear fleet and asked if the tribal fixed gear fleet was covered.

Mr. Harp did not believe that was covered in the motion.

Mr. Robinson stated that his motion did not include tribal vessels that are not limited entry.

Mr. Anderson suggested a friendly amendment requiring the declaration piece of the motion to apply to tribal trawl vessels.

Mr. Harp agreed and Messrs. Robinson and Anderson accepted the friendly amendment.

Messrs. Anderson and Harp stated the tribes and WDFW are working together on sampling programs to help with conservation issues and will work on the details of the declaration requirements as well.

Mr. Donald Hansen, Vice-Chairman, asked for the vote on motion 22. Motion 22 passed.

G.4.a Agenda Overview

Mr. John DeVore gave the agenda overview. A joint session of the SSC, GMT, GAP and staff from the NMFS Northwest Fisheries Science Center occurred on Tuesday to discuss the Stock Assessment Review Process. A good discussion ensued and reports from each of these advisory bodies are available for this agenda. Mr. DeVore noted there is a strong linkage between this agenda item and the one to follow concerning multi-year management. He urged the Council to keep this in mind as they work through both agenda items.

G.4.b NMFS Northwest Fisheries Science Center Report

Dr. Liz Clarke gave the report of the Northwest Fisheries Science Center (NWFSC) of NMFS. Coordination of stock assessments and STAR Panels has been done. The results of this effort are provided in the following timeline for 2003 STAR Panels:

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>TYPE</th>
<th>DATE</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>WHITING - US/CANADA</td>
<td>FULL</td>
<td>FEB 25-28</td>
<td>SEATTLE</td>
</tr>
<tr>
<td>BOCACCIO, BLACK</td>
<td>FULL</td>
<td>APR 21-25</td>
<td>SANTA CRUZ</td>
</tr>
<tr>
<td>POP, WIDOW</td>
<td>FULL</td>
<td>APR 14-18</td>
<td>SEATTLE</td>
</tr>
<tr>
<td>COWCOD, DARKBLOTCHED,</td>
<td>UPDATE</td>
<td>APR 28-29</td>
<td>PORTLAND/SEATTLE</td>
</tr>
<tr>
<td>YELLOWTAIL</td>
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Dr. Clarke noted some changes to stock assessment plans from the last Council meeting. The Pacific Ocean perch (POP) assessment will be a full, not updated, assessment on the advice of assessment authors who want to explore a new model structure for the assessment. The cowcod, darkblotted, and yellowtail assessments will be updates, but the STAR Panel reviews will be in person at a meeting in Portland or Seattle instead of via teleconference or email. This is to accommodate the ambitious number of assessment reviews expected this spring and to more efficiently review these three assessments. The SSC noted in their Terms of Reference that it is important that all assessments be available well in advance of STAR Panel meetings. This will be stressed to all assessment authors. A revised 2003 stock assessment and review Terms of Reference will be developed by the Stock Assessment Coordinator of the NWFSC, reviewed by the SSC and Council staff, and brought back to the Council. Depending on Council actions concerning a multi-year management process for setting groundfish specifications and management measures, the NWFSC is considering a summer 2003 delivery of a full cabezon assessment and a full or updated lingcod assessment. Potential assessment authors have yet to be identified. The NWFSC could take the lead on one of these assessments, but would need the cooperation of state scientists to do both assessments next year.

Dr. McIsaac asked for clarification of Dr. Clarke’s last statement concerning a summer delivery of a cabezon or lingcod assessment and the need for state cooperation to do both. Dr. Clarke said they have a stock assessment author who could do one of these assessments, but, to do both, a lead author from another agency would have to be identified. Shelf and slope surveys next summer will require most of the NWFSC staff. Dr. McIsaac noted the Council decided at the last meeting to prioritize a lingcod assessment over a cabezon assessment. Is there a problem staying with this priority? Dr. Clarke said no, they could do lingcod or they could do cabezon if someone else does lingcod. Dr. McIsaac asked for clarification of the proposed summer delivery of these assessments? Dr. Clarke said they looked at the Council's preferred alternative for multi-year management. In order to have these assessments available for the November Council meeting, they would have to be reviewed by a STAR Panel in late August. Mr. Brown asked about the whiting STAR Panel review in February. Wouldn’t this review schedule preclude using next summer’s survey results? Dr. Clarke said the whiting assessment and review schedule was based on the recommendation of last year’s STAR Panel. The NWFSC therefore proposes doing a full whiting assessment this winter and another full assessment next winter that would use the 2003 hydroacoustic survey results. Mr. Brown asked if there was new information to input in this winter’s assessment?
Dr. Clarke said the NWFSC is proposing a new assessment model structure for whiting. That change could be accommodated during this year’s assessment cycle and the new survey data could be incorporated in next year’s assessment cycle. This recommendation helps prepare for the 2004 whiting assessment and helps Canadian management (the whiting assessment and review are a joint U.S./Canada effort). Mr. Anderson stated WDFW can help with a new lingcod assessment. Mr. Jagielo could explain plans to do this. WDFW staff are prepared to do a full lingcod assessment to free up NWFSC staff to do a full cabezon assessment.

G.4.c Reports and Comments of Advisory Bodies

SSC

Mr. Tom Jagielo provided Exhibit G.4.c, Supplemental SSC Report.

Mr. Anderson asked if the SSC had a statement regarding multi-year management? Mr. Jagielo said yes and he pointed out the overlap between this agenda item and multi-year management. Mr. Anderson said he would explore the last point in the SSC statement (current STAR process won’t work well with multi-year management) during G.5 discussions.

GMT

Mr. Brian Culver provided Exhibit G.4.c, Supplemental GMT Report.

GAP

Mr. Rod Moore provided Exhibit G.4.c, Supplemental GAP Report.

Mr. Donald Hansen asked if the NWFSC addressed all of the GAP’s whiting concerns? Mr. Moore stated they addressed some but not all the concerns.

Mr. Brown thought the analysis of historical foreign catch data of POP and darkblotched had been done by Dr. Jean Rogers. Mr. Moore said it was his understanding, but no one has seen the document. Dr. Clarke said the draft is in review and should be available by the end of January 2003. Mr. Brown asked who reviews this? Dr. Clarke said technical experts in the field. This work will be given to the Council next year. Mr. Brown noted this is a critical analysis since the status of POP and darkblotched could be anywhere between healthy and overfished depending on the analytical results.

Dr. McIsaac asked how the whiting hydroacoustic survey data that will be collected in the summer of 2003 can be used to make a fall 2003 decision on 2004 management specifications? Dr. Methot said in the past the Council has had a whiting placeholder during their fall decision meeting to defer final whiting specifications until their following March meeting. Some NEPA analysis could still be done in the fall of 2003 using this whiting data and a two meeting (November and March) Council process. However, that plan would be problematic if a whiting assessment is not done until February 2004. Dr. McIsaac stated that, under the Council-preferred alternative for multi-year management, all assessments would be available in the fall. Could the whiting assessment process fit this schedule? Dr. Methot was uncertain how this would work. He mentioned there is a potential U.S.-Canada agreement to develop an international whiting management process that would be out of synch with the Council groundfish process. The 2002 assessment caused significant economic hardship. We therefore need the best available science to manage whiting.

G.4.d Public Comment

Mr. Gary Frederic, fisherman; Toledo, Oregon
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California
Ms. Janice Green, Recreational Fishing Alliance; Umpqua, Oregon
In response to Ms. Green's recommendation for a 2003 cabezon assessment, Mr. Boydstun asked GMT member Dr. Kevin Piner if he was recommending a California or coastwide cabezon assessment? Dr. Piner explained he wanted to look at the data first before delineating a range for the assessment.


Mr. Anderson asked Mr. Jagielo to explain WDFW plans for a lingcod stock assessment. Mr. Jagielo explained WDFW would do a full assessment. A new lingcod length-age database has been developed with 20,000 age samples. WDFW staff can do this full assessment, but they would have to defer a northern black rockfish assessment. Therefore, the consideration is for NMFS and CDFG to do a California black rockfish assessment in 2003 to allow WDFW staff to focus on the lingcod assessment. There would be a fall delivery of the full lingcod assessment. Mr. Anderson further explained they are talking about deferring an assessment of the black rockfish stock north of Cape Falcon. The timeline for delivery of a full lingcod assessment will be discussed during the multi-year management agenda.

The Council further discussed the STAR process relative to multi-year management. Under the Council-preferred alternative for multi-year management, it is anticipated a STAR Panel would need to be convened in August for delivery to the Council at its November meeting. Dr. McIsaac referred to the transition year (2004) for multi-year management and the timing of new stock assessments. A two meeting process for setting specifications for the transition year is a problem for Council staff workload. Therefore, limiting the number of assessments for that process is recommended. Delivering two assessments to the Council next November may be reasonable, but should be discussed in the context of multi-year management.

Mr. Brown asked Dr. Clarke if the whiting STAR Process could fit the transition year process under the multi-year management and whether the assessment could be delayed to incorporate the 2003 hydroacoustic survey? Dr. Clarke responded it doesn’t fit. NMFS cannot afford to delay the whiting assessment until next October because there would be no time to do the assessment after the acoustic survey.

G.5 Amendment 17 - Multi-Year Management (10/31/02; 3:04 pm)

G.5.a Agendum Overview

Mr. Waldeck gave a brief overview of the agenda item, briefing materials, past Council action on Amendment 17, and scheduled Council action.

G.5.b NMFS Report

Ms. de Reynier provided a Powerpoint presentation. (On file at the Council office).

G.5.c Reports and Comments of Advisory Bodies

GMT

Dr. Jim Hastie provided Exhibit G.5.c, Revised Supplemental GMT Report.

The Groundfish Management Team (GMT) received an update on Amendment 17 at its October meeting from Ms. Yvonne de Reynier, National Marine Fisheries Service. With regard to the multi-year management cycle, the GMT prefers Alternative 3, a three-meeting biennial process with a January 1 start date for the fishing year and statistical year. This alternative does not use the most current science for the development of management measures, but it does provide for consistency with historic management practices as it reflects the status quo fishing period. This consistency allows fishery managers to compare current statistics with historical data.

The GMT is aware of the desire of industry to maintain a January 1 start date to accommodate established marketing practices. Starting the fishery later in the year (e.g., March or May) could cause additional problems as those start dates could result in inseason adjustments having to be made outside of regularly scheduled Council meetings. It is for these reasons that the GMT is proposing a mid-process “best available science” check on harvest levels.
Assessments for fishing in Years 6-7 would be complete by October of Year 4. November Council meeting of Year 4 could allow checkpoint for Year 5 harvest levels.* This checkpoint would look at whether the new science/assessment completed in Year 4 were substantially different from harvest levels set by science/assessments from Year 2. The GMT recommends that the Council develop a process for setting trigger standards at which harvest levels for that second fishing year (Year 5) would be revised.

The GMT also believes that a three-meeting process would serve best to provide adequate time for stakeholder involvement in the decision-making process, as well as time needed to review stock assessment and rebuilding results, develop management measures, prepare necessary NEPA documents, and make necessary changes to documents prior to the Council taking final action.

The GMT also discussed the trade-offs associated with having a two-year optimum yield (OY) vs. two one-year OYs. The GMT recommends two one-year OYs (status quo) because of the fishing and management implications associated with overharvest in the first year of a two-year OY. If this were to occur, it could severely constrain fisheries in the second year. Further, the GMT does not believe that overages should be transferred as this could result in severe fishing and management problems the following year. The GMT also recognizes that transferring overages only could increase the likelihood that cumulative OYs over the long-term will be exceeded. The GMT notes that, under the status quo, overages are accounted for when stock assessment or rebuilding analyses are updated.

The Council was keenly interested in the GMT suggestion to incorporate ‘‘mid-process checkpoints’’ for reviewing and adjusting management specifications during the multi-year management period. During his report, Dr. Hastie elaborated on operational aspects of the checkpoint process, especially the compelling need to develop thresholds for determining if changes were warranted (see meeting tape for specific comments). This checkpoint process was included in the final motion adopted by the Council, as was direction to the GMT for development of requisite thresholds.

SSC

Mr. Tom Jagielo provided Exhibit G.5.c, Supplemental SSC Report.

Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP) (Exhibit G.5, Attachment 1) offers four options, in addition to the status quo, to change the Council’s process for setting groundfish specifications and management measures from an annual to a biennial cycle. The Council initiated this FMP amendment to: (1) allow for a new legally mandated five month notice and comment period and (2) to reduce workload by streamlining the specifications process. Moving to a biennial process is likely to have both favorable and unfavorable consequences, many of which are difficult to foresee. Of foremost concern to the Scientific and Statistical Committee (SSC) are the potential impacts to the quality of the scientific information the Council uses in its decision-making process.

This subject has been commented upon previously by the SSC (see Exhibit A.5, April 2002 Council Minutes, pp. 42-43). The SSC reiterates that it is most important to base management advice on results from stock assessments that use the most recent data. However, across the four biennial options considered, there is a substantial range in the timeliness of the scientific information that will be used to manage the groundfish fishery. Alternative 5 provides the most current information and is, therefore, the option preferred by the SSC.

It would be useful to evaluate the implications of setting groundfish acceptable biological catches for a number of years into the future based on survey data that are several years old. To some degree this is a feature of the current annual management cycle. However, it will likely be exacerbated under a biennial system and this will increase the level of uncertainty in the scientific advice the Council receives.

GAP

Mr. Rod Moore provided Exhibit G.5.c, Supplemental GAP Report.

The Groundfish Advisory Subpanel (GAP) received a presentation from Ms. Yvonne deReynier of the NMFS Northwest Region regarding final action on Amendment 17 to the Pacific groundfish fishery management plan (FMP) and makes the following recommendations.
The GAP continues to support Alternative 3, which would provide for biennial management with a season start date of January 1st. As the GAP has previously noted, this will provide the advantages of a more relaxed management process, allow the Council to address a variety of issues which it now must delay due to workload imperatives, enable the use of relatively current science, and provide the least economic disruption to participants in the fishery.

The GAP examined the issue of establishing optimum yields (OYs) for either a two-year period (January 1 of year one to December 31 of year 2) or for two consecutive one-year periods. The GAP is cognizant of problems with being able to access up to date harvest data, including, but not limited to, recreational harvest data in some areas, and how the delay in data acquisition could effect both the establishment of OYs and inseason adjustments. The GAP believes that setting a two-year OY would provide the most flexibility for harvest managers and harvesters. However, in order to provide a safety factor to avoid over-harvest and early termination of fisheries; the GAP recommends harvests be managed so that no more than 60% of the OY be attained in the first year. This should ensure sufficient opportunity to achieve OY, as required under the Magnuson-Stevens Act while preventing overfishing and early termination of fishing opportunities in the second year of the biennium.

G.5.d  Public Comment

Mr. Joe Easley, Oregon Trawl Commission; Astoria, Oregon
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California

G.5.e  Council Action: Final Adoption of Amendment 17

Dr. Radtke asked if there were specific questions to the presenters of the advisory reports.

Mr. Brown asked the GAP to clarify their recommendation that (under a two-year OY) not more than 60% of the two-year OY be harvested in the first year. As this could result in major reductions in available harvest in the second year, did the GAP discuss other percentage caps?

Mr. Moore explained the intent should be to attain 50% of the OY in the first year, but recognize that it will be difficult to hit the target precisely. Thus, the GAP recommends providing flexibility to managers (and industry) for adapting to uncertainty and rapidly changing circumstances.

Dr. Hastie added that in recent years it has been difficult to project landings in some of the fisheries (e.g., bocaccio in 2002). He noted that even with a target of 50% for the first year, potentially more than 50% will be harvested in the first year. Given the difficulty in tracking landings and the potential for harvesting more than 50% in one year, it will be critical to find ways to ensure landings in the second year are held within the remaining available harvest. Thus, the ability to track and project landings under a multi-year management process will be critical.

Mr. Robinson asked Dr. Hastie to clarify what the GMT meant by “checkpoint.”

Dr. Hastie explained checkpoints could be put in place between the first and second year during the multi-year management term. Under these checkpoints, new science and/or fishery data to be used would be evaluated to determine if mid-process adjustments to the harvest targets are needed.

Mr. Anderson asked Ms. deReynier if she had reviewed the GMT’s suggestion for a three-meeting process (to develop 2004 harvest levels and management specifications) during the 2003 transition year. Ms. deReynier described what she perceived as potential problems with a three-meeting process in 2003. For example, if the Council took final action on 2004 specifications at the November 2003 Council meeting it would not be possible to publish the final regulatory package prior to the January 1, 2004 fishery start. This would necessitate use of emergency rulemaking.

Mr. Robinson suggested the Council deal with the multi-year management process and transition year as separate issues. To Mr. Anderson’s question, he noted two choices for transition. First, following stock assessments in Spring 2003, if no major changes were apparent, the Council could decide at the June Council meeting to roll over the 2003 regulations for the first four months of 2004. This could provide a three-meeting process (June, September, November). Conversely, if changes in the management regime are necessary for 2004, it will not be possible to do the rulemaking and/or an emergency rule by January 1, 2004. This would necessitate a two-meeting (June, September) process. The transition year process hinges on whether or not there are significant changes evident in the new stock assessments. The Council will have this information prior to June 2003, at which time it could decide if roll over was viable.

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The three-meeting scenario was clarified. If new assessment and fishery information (bycatch and observer program information) do not force major changes to the management regime, the Council could decide in June 2003 to rollover January 1-April 30, 2003 management specifications for the same period in 2004. The Council would then develop management specifications for the remainder of 2004, which would be adopted in November 2003 and the regulatory package would be finalized prior to May 1, 2004.

Mr. Robinson emphasized that any new information (positive or negative) that forces a change to the management specifications will require the Council to go a two-meeting (June, September) process in 2003. The changes could require a complicated EA, full rulemaking for the bulk of the 2004 season, and an emergency rule for the start of the fishing season.

The Council then discussed the need to manage Pacific whiting annually, rather than under the multi-year process. This is due, in part, to the volatile nature of whiting productivity and stock size changes. Also, because whiting carries international management obligations multi-year management would not be practical.

Mr. Alverson moved (Mr. Anderson, seconded) Motion 24 to adopt multi-year management Alternative 3 (as recommended by the GMT), amended to establish whiting OYs on an annual basis. The exact wording agreed to by the Council is as follows:

*Adopt Alternative 3 as described in the EA Exhibit G.5, Attachment 1, including (1) the mid-process best available science check in the Exhibit G.5.c, Revised Supplemental GMT Report, (2) including the two one-year OY recommendations as in Exhibit G.5.c, Revised Supplemental GMT Report, and (3) with the exception that whiting may be done on an annual basis.*

*Further the GMT will be tasked to work with the Council advisory bodies to come up with the thresholds for determining whether mid-process changes are necessary.*

Motion 24 passed, unanimous voice vote.

Mr. Waldeck reviewed for the Council actions taken and actions remaining for Council consideration, namely transition process for 2003.

To the transition question, Mr. Boydstun noted that decision will need to be made at the June 2003 meeting.

Mr. Brown stated that it might be difficult to wait until June as this is also the meeting where preliminary 2004 specifications are to be set. It might be necessary to make the decision about 2-meetings (June-September) versus 3-meetings (June-September-November) prior to the June 2003 Council meeting.

Dr. McIsaac suggested it would be helpful to the public if the Council would go on record expressing their intent for the process to be used in 2003 for setting 2004 harvest levels and specifications. For example, the Council could state their intent to use a 3-meeting process in 2003 contingent on new assessment and fishery information not indicating significant changes were necessary. This would be similar to what Mr. Robinson described during the earlier discussion. See paragraph above starting "The 3-meeting scenario was clarified."

Mr. Alverson asked if the Council did not take formal action to adopt a management process for 2003 would that create problems later? Mr. Robinson said no.

Mr. Bohn stated his opinion the Council should use a 3-meeting process in general.

Ms. Cooney noted the Council would be able to reconsider this in March and April 2003 and inform the public of their intent in terms of the 2003 management process.

Mr. Waldeck summarized that the Council’s intent was to use a 3-meeting process in 2003 for setting 2004 harvest levels and management specifications. The Council will have the opportunity to reconsider this issue at the March and April Council meetings. The public would be noticed of Council intent prior to June 2003.

Dr. Radtke stated then that Council should consider the opinion expressed by Mr. Bohn. The Council concurred that this would be their intent.
The Council then briefly discussed the process for developing the checkpoint thresholds. The GMT will initiate work on the issue at their February 2003 meeting. They will aim to have information for the SSC to review at the March meeting. The intent would be to bring forward recommendations for Council action at the April 2003 meeting, at that time the GAP and SSC would review and comment. A final decision could occur as early as June 2003.

G.6 Exempted Fishing Permits (EFPs): Update and New Proposals (10/31/02; 1:35 pm)

G.6.a Agendum Overview

Mr. John DeVore gave the agendum overview and highlighted the relevant documents for this agendum. He pointed out that, contrary to the Situation Summary, the Council would need to approve a shoreside whiting EFP at this meeting.

G.6.b Agency and Tribal Proposals

Tribal

Mr. Harp said the tribes do not have an EFP proposal but they have comments relative to state proposals that they would make later.

WDFW

Mr. Anderson reviewed Exhibit G.6.b, Supplemental WDFW Report. The WDFW was withdrawing their original proposal to conduct a midwater yellowtail EFP next year. This was to be a continuation of the 2002 EFP. However, given the new depth-based management regime adopted at the last Council meeting, full utilization of the widow and yellowtail OYs is anticipated. This eliminates the need for a midwater yellowtail EFP. Therefore, three EFPS are proposed by the WDFW:

1. Longline dogfish. Much of the fishery takes place in the 90-100 fm zone and the fishery will be restricted to outside 100 fm. This EFP tests the ability to cleanly target dogfish inside 100 fm without a significant bycatch of canary and yelloweye rockfish.
2. Midwater trawl pollock. This EFP is designed to measure bycatch rates of whiting and rockfish in the targeted midwater pollock fishery and to allow pollock fishers to land unsorted catches which may include groundfish species that would otherwise be prohibited (such as whiting and rockfish). Pollock are not in the groundfish FMP and are only covered under state regulations. Over 7 million pounds of pollock were landed in Washington in 2002. WDFW observers noted an average of 15,000 pounds of whiting were landed per trip under a 20,000 pound trip limit. Some yellowtail rockfish (~10-30 fish), widow rockfish and salmon were also observed; however, no canary were observed. This EFP will more accurately measure bycatch rates if this fishery occurs in 2003.
3. Trawl arrowtooth flounder/petrale. This EFP is designed to measure bycatch rates of canary rockfish in the targeted arrowtooth flounder/petrale sole trawl fishery with gear modifications. The final report on 2001 EFP results will be available at the end of this week. Targeted arrowtooth tows were clean relative to canary rockfish. While WDFW and Washington trawlers experimented with trawl net specifications, the 2003 EFP will mandate alternative gears to test gear modifications. This will be the third and final year of conducting this EFP. Results should be ready for coastwide application in 2004.

All three EFPS have mandatory rockfish retention and observer coverage in order to quantify the rockfish taken. Any rockfish in excess of the trip limits in place would be forfeited to the state.

ODFW

Mr. Bohn reviewed Exhibit G.6.b, Supplemental ODFW Report. It is a joint ODFW, WDFW, and CDFG application for an EFP to suspend landing limits and allow full retention of all prohibited species in the coastwide shoreside whiting fishery. It is identical to last year's EFP. They are in the process of working with industry on the "penalty box" specification.
CDFG

Mr. Boydstun updated the Council on results for California's 2002 EFPS. The yellowtail rockfish selectivity EFP using vertical hook and line gear was not successful due to a lack of participation. CDFG just received approval for their proposed shelf flatfish EFP using small footrope trawls. They have six active vessels with NMFS-trained observers participating out of the Princeton By The Sea (Half Moon Bay) and San Francisco port areas. Preliminary results should be available soon.

CDFG has no specific EFP proposals for 2003. They may not propose a yellowtail hook and line EFP. There is a lot of interest in a 2003 shelf flatfish EFP. Such trawl nets may require Bycatch Reduction Devices (BRDs).

NMFS

Mr. Robinson encouraged the states to work closely with the Northwest Fisheries Science Center (NWFSC) and the Northwest Region of NMFS to structure EFP proposals. Mr. Anderson stated WDFW did work closely with NWFSC staff and will continue to coordinate their proposals. They expect to deliver their applications in a month.

G.6.c Reports and Comments of Advisory Bodies

GMT

Mr. Brian Culver read Exhibit G.6.c, Supplemental GMT Report. He corrected the GMT table of EFP caps for darkblotted and yelloweye. The total EFP cap for darkblotted is 3.0 mt and the same for yelloweye is 4.7 mt.

GAP

Mr. Rod Moore reviewed Exhibit G.6.c, Supplemental GAP Report.

Mr. Anderson asked Mr. Moore if the GAP was aware that the midwater yellowtail EFP risked fishing opportunity in any 2003 directed midwater fishery? Mr. Moore said yes, but the GAP believes yellowtail can be harvested selectively without an adverse impact on widow. Even if there is a small cost to the fishery in the short term, the long term potential benefits were considered more important. Mr. Anderson asked if we could increase the number of observers in the midwater fishery to accomplish the EFP objectives? Mr. Moore thought this was possible, but it might disrupt the current NMFS Observer Program. This fishery has already had many observations.

SSC

Mr. Tom Jagielo provided Exhibit G.6.c, Supplemental SSC Report.

Mr. Anderson asked Mr. Bohn about the Oregon selective flatfish trawl EFP? Mr. Bohn said he was surprised that Mr. Anderson was bringing up WDFW proposals. He didn't bring up the ODFW selective flatfish EFP proposal because it didn't change and is still on the list.

Mr. Brown asked Mr. Jagielo if any of these proposed EFPS were inconsistent with Strategic Plan goals? Mr. Jagielo replied the SSC did not look at the EFP proposals in detail.

Mr. Anderson asked Ms. Cooney if agency observers could collect biological samples of canary and yelloweye from dead discards? Ms. Cooney asked if the question was can observers do this under any EFP or does it take an EFP to do this in the directed fishery? Mr. Anderson said the latter. Ms. Cooney thought it might take an EFP to do this. She was not aware of any other mechanism. Mr. Robinson asked if this activity could be accommodated under the guise of scientific research? Ms. Cooney said that could only be done aboard
a scientific research vessel. Therefore, an EFP would be needed to do this aboard a commercial fishing vessel. The Council agreed an EFP would be needed or it would be considered illegal retention of a prohibited species. The Council decided to continue to work on this and perhaps raise the question at the March Council meeting.

Tribal

Mr. Harp asked Mr. Steve Joner of the Makah Tribe to come to the podium to comment on one of the proposed EFPs. Mr. Joner expressed the Makah Tribe’s concern with the development of a new fishery for pollock. They have not had the opportunity to discuss this as co-managers with WDFW. The Makah Tribe would like to be more involved in developing fisheries in and adjacent to their U&A. Their concerns include the biomass, appropriate harvest levels, allocations, exchange of data, and questions about the 2002 pollock fishery. Mr. Anderson appreciated Mr. Joner’s concerns, but pointed out we had a co-managers meeting prior to the September meeting at Quetts and went over the EFPs. WDFW staff are always ready and willing to discuss the data and plans we have in this type of proposal. However, it is unfair to characterize this EFP proposal as a surprise.

Mr. Boydstun asked Mr. Robinson of the recommended policies and procedures for considering EFP proposals? Mr. Robinson stated the GMT, with the help of the SSC, has been asked to develop a “strawman” set of EFP policies and procedures. Mr. Boydstun asked about a timeline and Mr. Robinson suggested the Council could deliberate a strawman during the March or April Council meeting.

G.6.d Public Comment

Mr. Gary Frederic, fisherman; Toledo, Oregon
Ms. Karen Garrison, Natural Resources Defense Council; San Francisco, California
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California

G.6.e Council Action: Consideration of EFP Proposals and Recommendations to NMFS

Mr. Brown asked if there was a reason to do an EFP to place observers on vessels participating in the midwater trawl pollock fishery in Washington? Is this Washington law? Mr. Anderson replied that since some prohibited species are taken in that fishery (i.e., salmon) and the no sorting at sea requirement to prosecute the fishery required an EFP. Mr. Anderson explained that pollock don’t show up every year off the Washington coast. The EFP is needed in case they do occur in Washington in 2003. Although pollock is not a species in the FMP, he is hopeful it can be added. The Council will need to discuss this. Mr. Brown said he was concerned with limiting the pollock EFP to 3 vessels. This may establish a biased catch history that may eventually keep other vessels out of the fishery.

Mr. Bohn moved and Mr. Brown seconded a motion (Motion 23) to forward the six EFPs to NMFS for final approval as shown in Exhibit G.6.c, Supplemental GMT Report. The motion also includes the bycatch caps identified on the GMT table as corrected by Mr. Culver during the GMT presentation.

Mr. Boydstun said that if the California EFP is on the GMT list, he would like that taken off since the proposal needs further refinement. This was proposed as a friendly amendment which was accepted by Mr. Bohn and Mr. Brown.

Mr. Anderson assured the Council that WDFW will work with the tribes in developing future EFP proposals. He felt frustrated with the Makah Tribe’s comments given that these EFPs have been in front of the Council and GMT since September. Communications between the two parties needs to be improved. Mr. Harp said that he would like to attend the next meeting to discuss this. Mr. Brown said there is a Makah tribal member on the GAP who has been involved in these discussions.

Motion 23 passed.

Mr. Boydstun recommended an EFP agenda for the March Council meeting. He requested a GMT/SSC work group develop draft EFP policies and procedures for the Council before the March meeting. CDFG may also develop a shelf flatfish EFP proposal for that meeting as well. Mr. DeVore recommended that further
discussions about Mr. Boydston's request be taken up under workload items. He was unsure how Mr. Anderson's concept of including pollock in the FMP fits into this agenda. Mr. Anderson said it would be a discussion for workload priorities and the agenda for the March meeting. Mr. Brown noted the April meeting may be more appropriate for discussing these issues. Mr. Boydston said that there is a notice period required on the EFFPs. If our target is to initiate the EFP on May 1, then there may not be enough time after the April meeting. Ms. Cooney said that she thought if you get your application into NMFS early it can be published before the April Council meeting and the Council meeting could take place during the public comment period. Mr. Boydston concurred that we should reserve the March meeting for salmon issues. The Council concurred.

G.7 Groundfish FMP Programmatic Environmental Impact Statement (EIS) (10/31/02; 11:17 am)

G.7.a Agendum Overview

Dr. Kit Dahl read the situation summary:

Situation: NMFS, in consultation with the Council, is preparing a Programmatic Environmental Impact Statement (PEIS) that will review the current status of the federal groundfish management program and offer a range of alternative management strategies at a broad programmatic or policy level. This PEIS was initiated with a scoping process early in 2001 and is intended in part to provide the opportunity for and implementation of Council's strategic plan for groundfish. Since the strategic plan was adopted, and the EIS scoping period held, groundfish management has changed substantially, with the focus towards how to allow fishing while achieving the stock rebuilding mandate. The Ad Hoc Groundfish FMP EIS Oversight Committee (EIS Oversight Committee) met in May 2002 and developed a set of programmatic alternatives for Council consideration and adoption for analysis. However, but at the June meeting, NMFS recommended the Council delay adoption of the alternatives until it had developed its final management recommendations for the 2003 fishing year; the Council agreed. At the September 2002 meeting, the Council directed the Oversight Committee to reconvene and review its May alternatives to make sure they were still appropriate under the new stock conditions and management program. The committee met on October 8-9 and has revised its previous recommendations.

The EIS Oversight Committee's revisions do not fundamentally change the alternatives, but they do clarify the strategic focus represented by each alternative (except the status quo) and incorporate measurable criteria to compare and evaluate them. Each alternative (except the status quo) would represent a different way to amend the FMP to incorporate different goals, policies, and management frameworks.

NMFS asks the Council to review and endorse the set of alternatives summarized in Attachment 1, along with providing any guidance on the contents of the alternatives. Once the alternatives are endorsed by the Council, the teams preparing the PEIS will begin evaluating their potential environmental effects as part of the PEIS development process.

Attachment 2 presents a revision of the schedule for completion of the PEIS. The schedule is based on Council endorsement of the alternatives at the November Council meeting, thus allowing analysis to proceed. The Council is still scheduled to choose a preferred alternative in early 2003. This will allow completion of the draft PEIS by August 2003, as in the original schedule, subsequent public review, and preparation of the final PEIS. The Council should consider preparing an amendment package in parallel with the final PEIS to implement policies and program elements of the preferred alternative.

The Council may also consider providing guidance on future meetings of the EIS Oversight Committee and its membership.

G.7.b NMFS Report

Mr. Jim Glock gave a Powerpoint presentation. He began by answering the question “What is a programmatic EIS?” A PEIS looks at an entire program rather than bits and pieces or specific regulations; something the Council has not done in the past. It will look at the environmental consequences of the whole fishery management program rather than particular management actions. Next Mr. Glock answered the question “Why do a PEIS now?” He answered by noting that several major groundfish species are overfished and there is overcapacity in several groundfish fishery sectors. This has resulted in the declaration of the fishery as a major disaster. Therefore, NMFS and the Council is examining alternatives to the current management program, and the PEIS evaluates the environmental consequences of the alternatives. The PEIS is also an extension of the Groundfish Strategic Plan. Like that document the PEIS will serve as a guide for where management will go in the future.

Next, Mr. Glock provided a brief historical sketch of the management regime. When the FMP was first developed only Pacific ocean perch was overfished and the emphasis at that time was on encouraging domestic utilization of fisheries. An environmental regime shift also began in the late 1970s resulting in less
productive conditions. Today there are many more overfished species and the Council must prepare rebuilding plans, bycatch is an issue, and bycatch must be assessed and reduced. Therefore, the status quo is quite different than what it was when the FMP was first implemented.

Impacts on EFH have to be evaluated and socioeconomic conditions have deteriorated in fishing communities. Final adoption of the preferred action will commit the Council and NMFS to a specific course of action over the next 5-10 years. This will require FMP and regulatory amendments during this time period. (A PEIS is intended to cover a 5-10 year time period.) It is also worthwhile to start thinking about preparing the first FMP amendment.

Mr. Glock then provided a brief overview of the structure of the document. The purpose and need is to manage the West Coast groundfish fishery and resource and meet the requirements of the Magnuson Act. So the question is whether to continue with the same approach or try something different, including policies and methods. The strategic plan is one alternative (it is the basis for Alternative 2). But the Oversight Committee found that the strategic plan does not cover all aspects of the management program. In addition, it does not address some of the current issues in the fishery. A programmatic alternative must address all of the elements in a fishery management program: goals and objectives, numerical standards or specific goals, and management tools to achieve these standards. But specific regulations will not be evaluated.

Mr. Glock provided an overview of Exhibit G.7, Attachment 1, November 2002 (Revised Groundfish Programmatic Environmental Impact Statement Alternatives), which summarizes the alternatives. He then described the other parts of the document. The affected environment covers everything, including groundfish, nongroundfish, protected species, and also the human component and how they interact with the natural environment. The impact analysis will use qualitative methods, if possible. In some cases analysis will be qualitative if data are unavailable. Geographic information system technology will also be used, specifically the GIS developed in connection with the EFH EIS. As an example, Mr. Glock showed a map of rockfish richness areas developed by the NOAA Biogeography Program.

According to Mr. Glock, the Council needs to adopt the program alternatives at this meeting. They have the choice take them as is, or to revise some or all of the alternatives. But Council endorsement of a range of reasonable alternatives is needed in order to do the analysis. The alternatives will be compared to baseline conditions, which are characterized in the EIS. A draft analysis is scheduled for early February 2003 for advisory body review, and then the preliminary DEIS will be distributed to the Council and others before the March 2003 Council meeting with a review during the April meeting. This represents a compression of the analytical time, but it is still achievable. Adoption of the DEIS would occur at the June 2003 Council meeting. Public review of the draft would occur August through November 2003. Mr. Glock then concluded his presentation.

Dr. Radtke noted that this is not an action item, rather it is to provide guidance. Mr Glock responded a clear endorsement is needed of the alternatives in order for the analysis to proceed.

G.7.c Reports and Comments of Advisory Bodies

GAP

Mr. Rod Moore provided the GAP Report.

The Groundfish Advisory Subpanel (GAP) received an update from Mr. Jim Glock on the Programmatic Environmental Impact Statement (PEIS) being developed for the Pacific Groundfish Fishery Management Plan (FMP).

In general, the GAP agreed the alternatives developed by the Ad Hoc Groundfish FMP EIS Oversight Committee fully frame the range of issues that need to be considered. The GAP did not try to identify a preferred option within the alternatives.

Several issues were discussed the GAP believes need to be addressed in the PEIS. First, the PEIS should fully identify the management measures that have been put in place over the years and demonstrate how these have led to decreased allowable harvest. This need is especially apparent in the graph used to show declining fisheries. Second, the PEIS should try to identify the point at which further management restrictions elicit no further gains; in other words, when is enough enough? Third, the PEIS needs to identify, and if possible, quantify environmental influences on the status of groundfish stocks, including predator-prey relationships between groundfish species and between groundfish and nongroundfish species. Finally, the PEIS should describe how what we have done in the past influences the present state of the fisheries, both the biological state and the socioeconomic state.
G.7.d  Public Comment

Mr. Guy Grundmeier, Port San Luis Fishermen's Association; San Luis Obispo, California
Mr. Gary Frederic, fisherman; Toledo, Oregon

G.7.e  Council Guidance on Programmatic EIS Process

Dr. Radtke stated the Council will provide Mr. Glock with some guidance. Dr. McIsaac noted that to stay on schedule the Council needs to indicate some preferred options, and so the Council should provide this guidance.

Mr. Robinson said Mr. Glock is not looking for a preferred option, but only an endorsement that the scope of the options presented is adequate for analysis. Therefore, the Council should endorse the suite of alternatives laid out by Mr. Glock. The purpose of the PEIS is not to evaluate individual management measures within the different program alternatives, but different types of management methods will be evaluated across all the alternatives. For example, NMFS recently lost litigation involving the NEPA document on Amendment 13 addressing bycatch reduction measures and are under a court order to adequately evaluate a series of bycatch reduction measures. If you look at Exhibit G.7, Attachment 1, November 2002 (Revised Groundfish Programmatic Environmental Impact Statement Alternatives) bycatch reduction measures are listed, which will be evaluated in connection with the program alternatives. Mr. Robinson recommended that the Council endorse the suite of alternatives and let Mr. Glock proceed with the analysis.

Mr. Brown agreed the list of alternatives are appropriate; but was concerned about the status quo alternative. Status quo could be viewed as what the Council has done since 1980. We have to be sure that the analysis recognizes management today is very different than in the past (different targets, F ratios, different goals, implementation strategies).

Mr. Bohn said the GAP statement's last paragraph should be included as guidance to Mr. Glock as well. They brought up three points about previous management and the status quo. The Council concurred.

G.8  Groundfish FMP EFH EIS (10/31/02; 1:05 pm)

G.8.a  Agendum Overview

Dr. Dahl provided the agendum overview:

Situation: The Council has been briefed on the NMFS decision to develop a Supplemental Environmental Impact Statement (SEIS) that will analyze alternatives for designating EFH and minimizing the adverse effects of fishing on EFH. The NMFS project manager for the EFH SEIS will brief the Council on progress to date and discuss a timeline for SEIS development. The progress report will focus on the development of a geographic information system (GIS) that will be used to evaluate EIS alternatives.

NMFS requests the Council to appoint a technical committee to guide a contractor in the development and completion of an assessment of groundfish habitat. The committee would review the GIS and other data that would be the inputs into the assessment as well as an analytical framework that will serve as the assessment model. This strategy is consistent with the groundfish EFH decision tree that was presented to the Council in April. Members would come from Council advisory bodies and outside organizations with expertise in marine habitat. NMFS will also describe how this committee will work with the Habitat Committee. Along with the aforementioned GIS, these efforts form the basis for developing the alternatives that will be evaluated in the EIS.

The Council task is to discuss and provide guidance to NMFS on further development of the Groundfish EFH SEIS and the request for a technical committee.

G.8.b  NMFS Report

Mr. Steve Coppins noted he provided detailed presentations to the GMT, GAP and HC on the GIS and will not repeat it in front of the Council in the interest of saving time. A great deal of progress has been made in consolidating the best available data for the assessment of groundfish habitat. First, we built a multi-layered GIS with data on habitat from 0-3000 m, information on fishing effort, and trawl survey data. Second, we are nearing completion of a literature review on groundfish habitat and fishing and nonfishing impacts. This literature information is being entered into a database. A contract is being negotiated with the Marine
Resources Assessment Group to assess the status of groundfish habitat. This will be based on an analytical framework which will allow identification of conservation goals for habitat based the degree to which habitat function has been degraded due to anthropogenic activities, or if this analysis is not possible because of data gaps, these gaps will be identified. This assessment will eventually provide the problem statement that will focus policy discussions. However, significant issues remain that the Council needs to address. First, both the GIS and the literature review represent a significant improvement on the information in the EFH amendment adopted in 1998. However, it needs to be reviewed by scientists who understand habitat data and fishermen with practical experience with the areas in question and the gear affecting those areas. Second, the assessment methodology is by necessity innovative. It is unlike fish stock assessments where a considerable body of literature exists on methods. It is necessary for scientists familiar with complex modeling to review the assessment methodology. Mr. Copps asked the Council to consider formation of an ad hoc committee to review the data and assessment methodology just discussed. This committee would also allow public participation in the process. Keeping in mind that the DEIS must be published by August 2003 according to a court order, the committee needs to convene as soon as possible, if possible in December for an initial review. We have fallen behind the milestones presented in April; therefore, the committee would also help to revise the schedule in consultation with the Council chair. Mr. Copps would work with the Council staff in choosing committee membership. Three types of people are needed on the committee: scientists familiar with complex modeling exercises, scientists familiar with the geology and biology of Pacific coast habitat, and fishermen who can advise on the accuracy of habitat maps and descriptions of fishing gear that will be the inputs into the assessment model. That concluded Mr. Copps’ remarks. The Council had no questions.

G.8.c Reports and Comments of Advisory Bodies

GMT

Mr. Brian Culver provided Exhibit G.8.c, Supplemental GMT Report.

The Groundfish Management Team (GMT) supports convening a technical review committee to review and/or develop the risk analysis contemplated in the Essential Fish Habitat (EFH) Environmental Impact Statement. While development of such a committee is endorsed by the GMT, anticipated workload by GMT members precludes their participation in the technical review committee.

Mr. Brown asked whether the GMT could recommend membership to the technical committee. Mr. Culver replied that there was some discussion among team members and agreement that they could identify candidates from their respective agencies and the scientific community at large. Recommendations could be made on an informal basis.

HC

Mr. Tim Roth provided Exhibit G.8.c, Supplemental HC Report.

The Habitat Committee (HC) supports the development of a technical review committee to review the risk analysis being developed for the Essential Fish Habitat (EFH) Environmental Impact Statement (EIS). We recognize this risk assessment requires expertise on habitat, geology, bathymetry, and modeling. The scope of this work is beyond the immediate expertise of the HC, so we support the recruitment of outside expertise as needed. The HC is willing to participate in this process at the request of the Council. Given the difficult schedule ordered by the court for completion of this EIS, the HC also recognizes a technical review committee offers the best opportunity for transparency of the science and the process.

GAP

Mr. Rod Moore provided Exhibit G.8.c, Supplemental GAP Report.

The Groundfish Advisory Subpanel (GAP) reviewed the work being done on developing an environmental impact statement (EIS) for the essential fish habitat section of the Pacific groundfish fishery management plan.

The EIS will require the collection and analysis of a significant amount of data before it can be used effectively. Much of this data will need to come from individual fishermen who are familiar with the bottom topography in the areas in question as well as the geographic and temporal distribution of fish stocks.

Ideally, the data now being collected should be “ground-truthed” through a series of port meetings, similar to what was done
in developing the lines being used for depth-based groundfish management. The EIS development team is sympathetic to this approach, but noted to the GAP that both time and funding impose considerable constraints.

The GAP notes there are readily available means to gather detailed information, including using the assistance of Sea Grant. Oregon Sea Grant in particular has been more than cooperative in arranging meetings of the sort that could help the EIS team.

In regard to time, while there are certain court-ordered deadlines, the majority of the GAP believes that both the plaintiffs and the defendants in the essential fish habitat case have shown a desire to allow more time to complete the task if doing so will result in a better product. The majority of the GAP recommends the Council ask the Assistant Administrator for Fisheries to pursue an extended time line so that a better product can be developed.

A minority of the GAP notes the need for a delay in the time line has not yet been demonstrated and that it is premature to request such a delay. Further, a request for a delay should be initiated by NMFS in the context of the entire legal decision, which involves several Council plans.

Finally, the GAP recommends the Council convene an ad hoc technical team consisting of appropriate Council advisory body members - including members of the GAP who are familiar with the areas in question - to assist the EIS team in analyzing the data they have available.

Mr. Brown noted the second to last paragraph regarding the minority opinion. Can you expand on the phrase "in the context of the entire legal decision"? Mr. Moore replied, noting that one member of the GAP is employed by a plaintiff organization in the lawsuit. There was unanimous support in the GAP for producing the best product and this may require additional time. In addition, the Council is moving forward at a reasonable pace but it has a lot of information to deal with. However, the court case requiring this time line involved several different FMPs produced by different councils. Other councils may be doing better or worse in meeting the time line. Therefore, the plaintiffs are agreeable to a time extension as long as this doesn't give other councils an opportunity to slow down their EFH EIS development efforts.

Mr. Brown then noted he wanted clarification if the statement was referring to several Council FMPs or if it referred to the FMPs of other councils, and Mr. Moore had answered satisfactorily.

G.8.d Public Comment

Mr. Guy Grundheimer, Port San Luis Fishermen's Association; San Luis Obispo, California

G.8.e Council Guidance on EFH EIS Process

Dr. McIsaac asked Mr. Copps if he could be more specific about the composition of the group and whether it should be a Council-sponsored group or an independent group. Mr. Copps asked the Council to sponsor the group to exercise control over the process and provide guidance. He suggested membership would need some flexibility to allow the group to be put together quickly. With that in mind, as much guidance as could be provided from the Council would be helpful in terms of what types of people should be on the committee. Mr. Copps reiterated the committee should include people familiar with the complex modeling exercises; scientists familiar with Pacific coast habitat; and those fishermen who representing different geographic and the gear sectors.

Mr. Bohn supported a committee. But noted it would not be budgetarily neutral; if it is a new Council-sanctioned committee the Council would have to cover the expenses. Therefore, the size of the committee matters. He also asked if there a possibility that NMFS had some flexibility to fund the travel and associated costs for committee members to attend the meetings.

Mr. Robinson said NMFS has been able to obtain funding to work with NEPA-related issues, including the EFH EIS, and some of the funds have been contracted to the Council; some with the PSMFC, which has not been fully allocated and may be available to fund the work of the committee. Mr. Anderson noted he had the same question about funding.

Mr. Brown talked about how important the GIS in developing a habitat map and noted that the GIS uses data to infer likely habitat and that is what needs to be checked by this committee. Mr. Brown then said in assuming the habitat map is correct there would be fish densities as determined by trawl survey and catches by trawl logbooks. Using yelloweye rockfish as an example, the trawl survey does not go into rocky habitat. Therefore if you use it to map species abundance you conclude there is no yelloweye in rocky habitat. If you
use trawl logbooks, you also conclude that there are no yelloweye rockfish in rocky habitat because the
trawlers are not finding any there. You would then concluded that rocky habitat is not EFH for yelloweye
rockfish, the opposite conclusion from what is correct. So its important that those kinds of things be checked
by this committee. Mr. Brown suggested that first we recommend the committee; give the authority to
Mr. Copps, Dr. Radtke and Dr. McIsaac to work with the SSC and GAP to identify who will be on the
committee and the size of the committee. Mr Robinson should also be involved to identify potential funding.
The Council should not at this time determine committee composition in terms of specific people, but leave
this up to the aforementioned.

Mr. Robinson concurred with Mr. Brown’s comments and noted that a formal Council action may not be
needed as long as there is consensus on the formation of such a committee. He emphasized the project is
doing a fantastic job of pulling together data from many different sources into the GIS. This will proved some
views of the coast that we have not had before as a management tool. This committee is very important and
a wide range of expertise, including fishermen, should be on the committee.

Dr. Radtke replied this not a Council action but from the discussion provides enough guidance to Mr. Copps.

Mr. Boydstun noted the GAP was concerned about the timeline and the possibility of extending it. He asked
if the Council needs to consider now? Mr. Robinson said he is not sure if it needs to be an issue now. Later
on in the process, as more work is done, there may be a time squeeze; but it is too early in the process to try
to extend the deadline for EIS completion. Mr. Robinson asked for a point of clarification: would the guidance
of the Council be for NMFS to work with Dr. McIsaac and the Council staff and whoever we think is
appropriate to develop the composition of this committee? Dr. Radtke said yes, and noted that he would also
be involved in this task.

Mr. Brown noted in regard to the time line issue, it is conceivable that there is not enough time to complete
the project in relation to the lawsuit. If that were the case, Mr. Brown still felt that this work is very important
and it should be completed, even if it occurs after the deadline. Mr. Copps is on the path to creating a tool
that can be used in management that no one else is working on and is extremely important.

Dr Radtke asked Mr. Copps if he had enough guidance. Mr. Copps responded in the affirmative.

G.9  Groundfish Strategic Plan Two-Year Review (10/31/02; 4:40 pm)

G.9.a  Agendum Overview

Mr. Waldeck provided an overview of the agenda item. He noted this was a Council discussion and guidance
agenda item relative Strategic Plan implementation and capacity-related initiatives. He reviewed the briefing
book materials.

G.9.b  Summary of Achievements Toward Goals and Objectives

Mr. Waldeck summarized the main points of Exhibit G.9, Supplemental Attachment 1.

G.9.c  Planning to Resolve Ongoing Issues

Mr. Jim Seger reviewed Exhibit G.9, Supplemental Attachment 2.

G.9.d  Agency and Tribal Comments and Reports

CDFG was the only entity with comments. Mr. Boydstun, relative to capacity and effort reduction, said the
CDFG will be moving to further restrict access to the nearshore rockfish fishery and will develop regulations
in 2003 for limiting effort and participation in the live-fish fishery. It is likely that these measures will
significantly reduce the size of the qualified fleet.

G.9.e  Reports and Comments of Advisory Bodies

GMT
Dr. Hastie spoke to Exhibit G.9.e, Supplemental GMT Report.

GAP

Mr. Moore provided Exhibit G.9.e, Supplemental GAP Report.

The Groundfish Advisory Subpanel (GAP) examined three issues in the context of Strategic Plan review: Trawl Permit Stacking; Open Access Permitting; and Fixed Gear Permit Stacking.

While the GAP agrees that capacity reduction in the trawl fishery remains the highest priority, there is little further action the Council needs to take to begin a trawl buyout program. Therefore, the GAP believes that workload efforts should be focused on developing a trawl individual quota program, especially in light of the expiration of the federal moratorium on individual quotas. Although one member of the public suggested that a permit stacking program would be preferable in his port, the GAP notes the analysis needed for permit stacking would be the same as for individual quotas so the analysis should begin as soon as possible.

In regard to open access permitting, the GAP notes that two states have already begun a permit process for nearshore fisheries. In addition, there was lack of consensus among open access representatives as to whether a federal permitting process should go forward or how it should be constructed. The GAP, therefore, recommends that open access permitting be given a lower priority. However, the GAP believes the Council has provided an essential service in facilitating data exchanges among the states on open access issues. The GAP recommends the Council continue regular meetings of its Ad Hoc Open Access Committee so that information exchange can continue.

In regard to fixed gear permit stacking, the GAP discussed a number of issues in the context of Amendment 14. These included further GAP review - as requested by the Council - of the problem of multi-vessel / multi-permit leasing presented to the Council by Mr. Mike Pettis of Newport; a proposal to allow stacking of up to six permits presented to the Council by Ms. Michelle Longo-Eder; and further discourse on the practicability of grandfathering and owner-on-board requirements. The GAP recommends the fixed gear fleet engage in further discussions of Amendment 14 issues, ideally with the assistance of a Council-appointed facilitator and Council staff, and return to the Council in April with a suite of suggestions for refinements on Amendment 14. These proposals could then be reviewed by the GAP and other advisory bodies as a whole, rather than piecemeal. Since some of the proposals could involve regulatory amendments, and thus a two meeting process, the GAP further recommends that fixed gear stacking issues be included as an agenda item for the Council in April, with final action if needed in June. We believe that this will help streamline the process of further refining Amendment 14 and allow a holistic review of all proposals.

G.9.f Public Comment

Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California
Mr. Steve Bodnar, Coos Bay Trawlers Association; Coos Bay, Oregon
Mr. Gary Frederic, fisherman; Toledo, Oregon

G.9.g Council Action: Guidance and Planning to Achieve Objectives of the Groundfish Strategic Plan

Mr. Waldeck summarized potential actions under this item. Notably, Council consideration of how to proceed on capacity-related initiatives for the trawl, fixed gear, and open access sectors.

Mr. Bohn supported the GAP suggestion for the fixed gear sector to meet and work on the three fixed gear issues detailed in Exhibit G.9, Attachment 2. The intent would be for this group to meet and report back to the Council in April 2003.

Mr. Robinson noted his disappointment that neither the GMT nor GAP noted the need to work on permitting or limiting capacity in the open access fishery. The advisors seemed to suggest that state activities would be sufficient. However, there seems to be a compelling need to have a way to track participation and reduce capacity in open access fisheries. He wanted to know if this was a priority for the Council.

Mr. Boydston noted his sense that state programs to limit entry would exacerbate problems in federal open access fisheries. That is the state regulations will force vessels into federal open access fisheries. For example, the CFGC plans to regulate the number of vessels in the live-fish fishery, which will transfer effort into federal nearshore rockfish, sablefish, and slope rockfish fisheries. Therefore, the Council should proceed with efforts to cap participation in the open access fisheries, notably sablefish and slope rockfish. He suggested development and issuance of an interim moratorium permit for open access vessels that target (directly harvest) groundfish. Individuals would qualify based on minimal past participation.
To that end, Mr. Boydstun suggested the Open Access Permitting Development Team meet to develop options for a moratorium permit for directed open access groundfish fisheries. Permits would be based on minimum historic participation, non-transferable, renewable, interim until formal limited entry developed. These recommendations would be brought back to the Council at the April 2003 meeting.

Mr. Brown suggested to moved forward on capacity reduction in the limited entry trawl fishery (through permit stacking, buyback, or IFQ) should be a high priority. This work should move forward for Council consideration in April 2003. He noted this was a question of Council priorities and the Council needed to consider how best to use its limited resources. He emphasized the Council needs to be prepared to move forward on IFQs.

Mr. Alverson concurred with Mr. Bohn's suggestions. He also agreed with Messrs. Robinson and Boydstun on the open access fleet concerns. Capacity reduction in the limited entry trawl fishery is also important. It might be possible for work to proceed on these issues as well, Congressional action will affect the form of this progress, e.g., if buyback funds are appropriated or if the IFQ moratorium is lifted.

Mr. Brown suggested that the limited entry trawl sector could get together (outside the Council process) to work on developing the initial foundation for either trawl permit stacking or IFQs. If these industry-sponsored meetings occurred, report on permit stacking and IFQs could possibly be brought to the Council in April 2003.

Mr. Anderson in terms of priority of the various initiatives, these will be discussed under workload on Friday (November 1, 2002)? Dr. Radtke responded, yes.

Mr. Anderson added his support for the suggestions of Mr. Robinson and Mr. Boydstun relative to the open access fleet and the need to identify participation in those fisheries.

Mr. Donald Hansen also supported Messrs. Boydstun's and Robinson's comments on the open access fleet.

Mr. Bohn also concurred with the need to move forward on addressing participation in the open access fishery. As a first step, direct versus indirect open access groundfish fishers should be identified.

Mr. Waldeck summarized the items discussed by the Council. Priority of the various initiatives will be discussed under workload planning on November 1, 2002.

G.10 Further Refinement of Amendment 16 - Rebuilding Plans (11/01/02; 8:06 am)

G.10.a Agendum Overview

Dr. Dahl provided an agendum overview and summarized the contents of Attachment 1, Chapter 2 of Amendment 16 describing process and standards options.

G.10.b Reports and Comments of Advisory Bodies

SSC

Mr. Tom Jagiello provided Exhibit G.10.b, Supplemental SSC Report.

Mr. Jim Sager updated the Scientific and Statistical Committee (SSC) on the current status of Amendment 16 options for the groundfish fishery management plan (FMP) to ensure that rebuilding plans for overfished stocks comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The SSC identified issues 1, 2, and 3 from Sec. 2.1 of Attachment 1 of Exhibit G.10 to be the most relevant to its discussion:

Issue 1: The form and required elements of rebuilding plans.

Issue 2: The process for periodically reviewing rebuilding plans.

Issue 3: Defining events or standards that would trigger revision of a rebuilding plan.

Under Issue 1, Option 1b would require that specified elements of rebuilding plans be incorporated into the FMP by amendment, including numerical values for the rebuilding parameters: $T_{\text{MIN}}$, $T_{\text{MAX}}$, $T_{\text{TARGET}}$, and $P_{\text{MAX}}$. 

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As indicated in the Supplemental SSC Reports on items C.5.b from June 2002, and C.7.b from September 2002, the SSC recommends a more "flexible" approach be taken with respect to the specified elements of rebuilding plans than what currently appears in Option 1b.

Because the rebuilding analyses are complex, a natural tendency may be to specify numerical values for the rebuilding parameters in the FMP. This "fixed" approach could create a false sense of precision, and substantial administrative costs will likely be incurred as many rebuilding parameter values are updated during the normal flow of scientific information into the management process. For example, consider the recent situation with boccacio. Results from the most recent Boccacio Rebuilding Analysis indicate that under the SSC's Guidelines for Rebuilding Overfished Stocks, boccacio fails to rebuild by $T_{\text{MAX}}$ with 50% probability, even with zero fishing mortality. This unusual result stems from an update of the original boccacio rebuilding analysis, and is explained by two unfavorable events that occurred since the original work, (1) The 1999 year-class is not considered to be as strong as previously believed, and (2) landings over the last three years were much greater than the Optimum Yield (OY) in each of those years. As new information about the strength of the 1999 year-class became available from the latest boccacio stock assessment, the numerical values of rebuilding parameters were updated, leading to the result that boccacio will not rebuild by $T_{\text{MAX}}$ with 50% probability.

Therefore, the SSC recommends that only one of the rebuilding parameters should be numerically specified. After careful discussion, the SSC concluded that $P_{\text{MAX}}$ is the most logical candidate for numerical specification by fishery managers. The specified value of $P_{\text{MAX}}$ is constrained to be at least 50%, though a more conservative choice may be preferable. All other rebuilding parameters, including $T_{\text{MIN}}$ and $T_{\text{MAX}}$, can be derived using scientific information from stock assessments, formulas, or algorithms from the SSC Terms of Reference for Groundfish Rebuilding Analyses (e.g. Exhibit F.7, April 2001).

The SSC recommends Option 1b be revised to read: "For each overfished species, the FMP would be amended to specify a numerical value for $P_{\text{MAX}}$, the probability of rebuilding within $T_{\text{MAX}}$. All other rebuilding parameters would be described by an algorithm or formula in the FMP."

The SSC also discussed options under Issue 2 for periodically reviewing rebuilding plans. The SSC suggests that timing of reviews be closely aligned with stock assessments for the overfished stocks and recommends Option 2b.

Issue 3 for evaluating rebuilding progress would be resolved by the flexible specification in the revision of Option 1b. In a routine situation, such as canary rockfish in the 2003 fishery, OY would be adjusted to ensure rebuilding of the stock according to the specified $P_{\text{MAX}}$. Otherwise, like the situation with boccacio this year, progress would be inadequate, and the rebuilding plan would be amended.

Mr. Brown asked for clarification of the SSC position on the options under Issue 1 in the amendment. He asked why the SSC is not supporting Option 1c, which would put rebuilding measures in regulations rather than Option 1b, which puts them in an FMP amendment. Mr. Jagiello responded that was probably an oversight; the SSC was not ruling out the possibility of putting them in regulations.

Mr. Robinson noted a couple of points that troubled him. First, he recognizes the SSC focuses on the science, and everybody recognizes how rebuilding works in terms of new stock assessments changing our understanding of stock status. But in the policy making world the rebuilding plans have to go before a judge, reviewers and the public. One of the first things that these people want answered is "How long will it take to rebuild these stocks?" So why is the SSC recommending $P_{\text{MAX}}$ and not $T_{\text{TARGET}}$ since $T_{\text{TARGET}}$ is what people will be looking for? Mr. Jagiello responded it would be possible to show this resolve by using $P_{\text{MAX}}$ because it reflects the best available science and the other parameters show a high degree of variability and they are all derivable from $P_{\text{MAX}}$. The Council can choose whatever level of risk aversion they consider desirable. Numerical specification would create a lot of unnecessary revision at a later time. Mr. Robinson noted that $P_{\text{MAX}}$ is a measure of rebuilding during the maximum time period, but most people are looking for a time period less than that. Mr. Jagiello responded that as long as a greater than 50% probability is chosen; $T_{\text{TARGET}}$ if specified as the median rebuilding time, will be less than $T_{\text{MAX}}$ and any level of risk aversion the Council chooses could be so codified. A higher probably could result in a greater need to modify the FMP/regulations later in the rebuilding period.

GMT

Dr. Jim Hastie provided Exhibit G.10.b, Supplemental GMT Report.
target $B_{MSY}$ (typically 40% of $B_0$) all change every time a stock is assessed. The specified rebuilding parameter of $T_{TARGET}$ (the specified rebuilding period) or $P_{MAX}$ are considered the most logical choices for fixed rebuilding parameters. However, the GMT does not advise specifying both parameters since rebuilding plans would have to be amended with every stock assessment. The Team notes that the Magnuson-Stevens Act (MSA) requires a specified duration for rebuilding overfished stocks leaving $T_{TARGET}$ as the logical choice for a fixed specification. All other rebuilding parameters should be framed in the FMP as algorithms derived consistently with the SSC Terms of Reference for groundfish rebuilding analyses. The Team recommends that $T_{TARGET}$ be specified in regulatory amendments (Option 1c). Specifically, the FMP should have flexible formulaic rebuilding parameters with specific parameters incorporated into regulations.

Under Issue 2, the process for periodically reviewing rebuilding plans, the GMT recommends Option 2b.

Consistent with the Team's recommendation for Issue 1, options under Issue 3, defining events or standards that would trigger revision of a rebuilding plan, should have alternatives that specify $T_{TARGET}$ given the MSA mandate to specify a rebuilding duration. $T_{TARGET}$ can direct a rebuilding strategy. The Team recommends Option 3e where the SSC and GMT decide what changes in rebuilding parameters are significant for amending the FMP.

Additionally, rebuilding plans need to include a statement explaining the rationale for determining that the species is overfished (e.g., calculation using 25% of $B_0$ vs. ½ $B_{MSY}$, etc.), but specification of value of $B_0$ should not be hardwired into the rebuilding plan.

Mr. Bohn noted neither the SSC or GMT commented on Issue 4, regarding the ESA. Dr. Hastie responded in the affirmative.

Mr. Anderson asked what would happen if there was significant disagreement over rebuilding progress, which could be an issue if Option 3d is chosen. Dr. Hastie responded that it is not a clear at this point how the process would work. It will be an issue largely driven by the SSC because questions about changes in parameters will come down on the scientific side. GMT advice would come in if the scientific results suggest a dramatic change in yields. Then a new analysis might be conducted on GMT recommendation.

Mr. Robinson asked why the GMT is recommending that parameters be specified in regulations rather than the amendment. Is that because of the assumption that regulations are easier to change in the federal process than an FMP amendment? That may be not the case because an FMP amendment without regulations accompanying it can be approved by the Regional Administrator with concurrence from the Assistant Administrator for Fisheries while a regulation has to be reviewed by NOAA lawyers, DOC lawyers, and possibly OMB. Therefore, a simple FMP amendment without regulations may be much easier to change than regulations. Dr. Hastie recalled the GMT favored the use of regulations because they thought the regulations would be easier to change. If there is an opportunity to make implementation easier through the FMP process then the GMT would likely favor that because the main interest is adding least to the administrative burden.

Mr. Bohn noted this is the key issue in determining which option to choose. He can't recall any FMP amendment that didn't have associated regulations. That is why he was looking at regulations as a more flexible approach but conceded he could be wrong.

Ms. Cooney commented the process must entail either an FMP amendment or regulations but each process has its own time frame and standards. In general, things that govern what the Council and NMFS does are put in the FMP while things that govern what fishermen or the public does go in regulations. There are a few things that have gone through as plan amendments without regulations, the EFH parts of FMPs for example. FMPs have more specific time frames and regulations have a slightly more flexible time frame but it depends on the complexity of the issue.

**GAP**

Mr. Moore provided Exhibit G.10.b, Supplemental GAP Report.

The Groundfish Advisory Subpanel (GAP) reviewed the options being considered for Amendment 16 to the Groundfish fishery management plan (FMP) and makes the following recommendations. Our comments are made in reference to Exhibit G.10, Attachment 1.

In regard to Issue 1, Form and Required Elements; the GAP recommends adopting Option 1c. This option provides the Council with the greatest amount of flexibility in dealing with potential changes to rebuilding plans and schedules. The GAP notes that some species designated as "overfished", such as Pacific whiting, have the potential to reach rebuilding targets more quickly than anticipated. Further, additional data during a rebuilding period may require more or less severe rebuilding
measures than might be called for in the initial rebuilding plan. Using a regulatory rather than an amendment approach will give the Council greater ability to deal with these unforeseen fluctuations in abundance.

In regard to Issue 2, Periodic Review; the GAP recommends adopting Option 2A. The GAP believes the law is clear in requiring a two-year review. As more data becomes available with the increase in stock surveys, it is imperative that a full review be conducted at the legally required intervals in order to ensure that rebuilding targets are being met and to take account of changes in stock abundance. Again, this approach, while cumbersome, will actually provide greater flexibility to the Council in dealing with species designated as “overfished”.

In regard to Issue 3, Amending Plans and Adequacy of Progress; the GAP recommends adopting a combination of Options 3D and 3E. Again, flexibility in dealing with stocks that fluctuate and with varying data quality is the key. Adequacy standards can best be set for individual stocks rather than using a “one size fits all” approach. Further, this will allow changes in plans as rebuilding parameters change. The GAP is concerned, however, the term “significant change” in Option 3D is undefined. Significance, like beauty, can be in the eye of the beholder. The term would benefit from a definition.

In regard to Issue 4, Endangered Species Act (ESA) Listed Species; the GAP recommends adoption of Option 4A. In other fisheries outside the jurisdiction of the Pacific Council, the courts have given precedence to ESA listed species, regardless of Magnuson-Stevens Act provisions. The GAP believes this option will be sufficient to protect ESA listed species and that no special efforts need to be made within the context of the groundfish FMP.

G.10.c Public Comment

Mr. Phil Kline, Oceania; Washington, DC
Mr. Guy Grundmeier, Port San Luis Fishermen’s Association; San Luis Obispo, California


Mr. Bohn moved and Mr. Brown seconded a motion (Motion 25) to adopt items 1c, 2b, 3e, and 4a, as shown in Exhibit G.10, Attachment 1.

Mr. Bohn described his rationale. In reviewing all the statements received and the public comments, the goal is flexibility to achieve rebuilding plan goals. Option 1c was proposed by GMT and GAP; and 2b by the GMT and SSC. Option 3e by the GMT and partly by the GAP, and the GAP supported Option 4a while the other two advisory bodies were silent on this issue. Therefore, this motion provides a blend of the items we want to accomplish relative to the rebuilding plans.

Mr. Brown noted that the SSC recommended Option 1b, but on questioning they noted this was an oversight and they were saying that “flexibility” is important and did not necessarily favor Option 1b over 1c. Therefore, the motion is consistent with the SSC recommendation. However, the GAP recommendation was Option 2a instead of 2b. The reality is that the major rebuilding parameters will only be updated when there is a stock assessment. So these two options are one in the same.

Mr. Anderson discussed Issue 4. The ESA requirements, under a Biological Opinion, are to keep the population from declining further and taking it up past the point where it qualifies as an endangered species, but not up to the point where you can sustainably harvest that species. He is concerned about Option 4a; Option 4b would account for the case where rebuilding measures are more restrictive than ESA requirements. Rebuilding plans and the ESA have very different goals. The Council objective should be to rebuild the stock to a level that permits sustainable harvest.

Mr. Bohn noted adopted rebuilding plan standards are very conservative. If a stock became listed, and there was a higher standard than the ones we have, you would default to the higher standard in the ESA because it is a federal listing. Therefore, we would automatically default to the higher standards, although he conceded they might have misunderstood the standards. Mr. Brown felt things would not work the way he described them. Rebuilding plans are not established because a species is endangered (ESA listed); if the rebuilding plan is working then the species never will be listed as endangered or threatened. If the rebuilding plan is not working and the species does become threatened or endangered, then the ESA would take precedence, which is more restrictive than the rebuilding plans. Therefore, if the rebuilding plan works the species will not become endangered, but if it is listed under the ESA then those more restrictive standards take precedence.
Mr. Anderson asked Ms. Cooney a question. Take a case where we had a species that had been determined overfished, there was a rebuilding plan approved, and then the stock was listed under ESA and the Biological Opinion required certain actions, and those actions, for example, were less restrictive than those of the rebuilding plan. Which would take precedent?

Ms. Cooney said you have to comply with both the statutes; and in theory the rebuilding plans should be more restrictive because your rebuilding to a more sustainable level. But if you had a rebuilding plan and, for example, jeopardy standards from the ESA the most restrictive one would prevail. If the rebuilding plan is effective then we can keep the species off the ESA list. Option 4b is similar to what we had looked at in salmon first. If a species was listed and the Biological Opinion required us to do something to avoid jeopardy, we would have to comply with that. Option 4b incorporates that automatically so additional rule making won't be required to comply.

Mr. Anderson concluded that whether we pick Option 4a or 4b, we will be stuck with Option 4b. We are going to have to comply with both ESA standards as well as the M-S Act; whichever one is the most limiting is the one we have to do. That is why we have to choose Option 4b to be in compliance with law.

Mr. Brown said we could go with status quo (Option 4a) so we don't have to make a lot of changes. Dr. Dahl said this option was crafted based on the Council's past experience with salmon; it does not address which mandate would take precedence. Rather, it recognizes that either we would have to put something into the FMP now or craft an amendment later when the stock is listed and there are jeopardy standards or a Biological Opinion. The idea is to get this amendment requirement out of the way in advance.

Mr. Anderson asked Ms. Cooney if he was wrong. Wouldn't the ESA take precedence, and guide what we have to do, regardless of whether the requirements under the ESA are more or less restrictive than a rebuilding plan? Ms. Cooney said if we adopt a rebuilding plan we need to be consistent with the rebuilding plan. If there was an ESA listing that created other, additional requirements we would have to adhere to them also. Option 4a says that we would stay with rebuilding plan and comply with any additional ESA requirements in that eventuality. Option 4b automatically incorporates the two requirements.

Mr. Bohn said maybe both the GMT and SSC are confused as to why we needed this. He is comfortable with whatever the federal government needs on this issue. Option 4a is fine since whatever federal law is most extreme will be what we have to do anyway. But if there is a need for Option 4b, he was not going to hold up the whole package on that.

Dr. Molsaas asked Dr. Dahl about what which option is most "workload friendly"? If the Council chose Option 4b would the Council have to go back the rebuilding plans and changing it at a later time? He also asked if its correct that there would be no difference in terms of the impact on fishing. Dr. Dahl concurred. He said either we could incorporate language into the FMP now that would recognize that jeopardy standards would also be considered in managing the species; or if the FMP remained silent on that, it would be necessary at a later time to amend the FMP to reference the jeopardy standards as part of the management framework. This issue was raised because of past experience with the Salmon FMP where an amendment was required when the stocks were listed. It is workload neutral: either more work would be required now if Option 4b is adopted, or with Option 4a, more work later if a species were listed.

Dr. Dahl asked for clarification on the motion in terms of Option 1c. Option 1c references Option 1b in terms of the elements that would be incorporated, which lists a set of parameters that would be specified. Is it the Council's intent that those parameters would be numerically specified under option 1c? Mr. Bohn responded that he treated option 1c exactly the way it is written, so those parameters would be rolled in under Option 1c.

Mr. Brown, the seconder, affirmed.

Mr. Robinson asked whether the motion addresses whether these parameters are specified as a number or algorithm. Hopefully we are leaving that for a later time to decide. Right now the preferred alternative states that they will be in regulations and not in an FMP amendment, however they are specified. Mr. Bohn concurred. Mr. Robinson asked Dr. Dahl if all of these options will go forward for analysis. He affirmed that they would. Mr. Robinson stated for the record that his preference would be that at least some of the
parameters be part of an FMP amendment because the rebuilding plans will be an FMP amendment and this plan needs a sufficient number of parameters in it to describe what it does. He would support the motion going forward but does not support Option 1c as preferred.

Dr. Radtke asked for a vote on Motion 25. Motion 25 passed. Messrs. Robinson and Anderson voted no.

Mr. Robinson pointed out Amendment 13, covering bycatch, was challenged in a lawsuit. One of the provisions of the court order concluded that the observer program was not made mandatory in Amendment 13. At the time, the observer program didn't exist so it authorized or permitted an observer program but didn't make it a mandatory part of the bycatch assessment methodology. Thus, the Council has a choice to comply with the court order by doing another amendment to re-do this part of Amendment 13 or to add it into Amendment 16, in order to make the observer program mandatory. Mr. Robinson moved and Mr. Bohn seconded a motion (Motion 26) to have Council staff incorporate a provision into Amendment 16 for the Council's consideration and public review following the April meeting. The provision complies with the court order and Amendment 13 by acknowledging the fact that the observer program exists, compliance with it is mandatory, and it is a standard part of the Groundfish FMP's bycatch accounting methodology. By incorporating it into amendment 16 under the housekeeping measures we wouldn't have to come and ask the Council to initiate a new amendment. Motion 26 passed.

G.11 Planning for Bycatch and B\(y\)/MSY Workshops (11/01/02; 9:32 am)

G.11.a Agenda Overview

Mr. Waldeck provided an overview of the agenda topic.

G.11.b Report of the Scientific and Statistical Committee (SSC)

Mr. Jagielo provided Exhibit G.11.b, Supplemental SSC Report.

The Scientific and Statistical Committee (SSC) and Northwest Fisheries Science Center (NWFSC) will organize a three-day bycatch workshop in the last week of January in Seattle, Washington. The objectives of this workshop are to review the methodological aspects of the bycatch model currently developed by Dr. Jim Hastie and how the new observer data will be applied in the model. The chair of the SSC Economics Subcommittee will chair the workshop and coordinate with NWFSC to develop the terms of reference. The panel will include representatives from the SSC, Groundfish Management Team, and Groundfish Advisory Subpanel, as well as independent experts.

Considering time constraints, the SSC recommends deferring the B\(y\)/MSY workshop to an “off” year under the future multi-year management process.

Mr. Jagielo, in response to a question from the Council, reiterated that refining bycatch estimation has greater relative importance than reviewing B\(y\)/MSY procedures. He also noted that availability of West Coast observer data would determine how much the workshop could accomplish, i.e., it is a critical element.

G.11.c Agency and Tribal Reports and Comments

None.

G.11.d Reports and Comments of Advisory Bodies

GAP

Mr. Moore provided Exhibit G.11.d, Supplemental GAP Report.

Due to scheduling conflicts, the Groundfish Advisory Subpanel (GAP) did not have an opportunity to meet with the Scientific and Statistical Committee or NMFS representatives to discuss plans for workshops on several scientific issues, including definitions and calculations of maximum sustainable yield and B\(y\), or unfinished biomass. Nevertheless, the GAP reiterates its previous recommendation that a stock assessment review-type workshop on calculation of unfinished biomass be convened as soon as possible. The calculation of unfinished biomass during the stock assessment process is a key component in
determining whether a stock will be designated overfished. Unfortunately, there are several different ways that unshod biomass has been calculated, especially in regard to stocks that may be influenced more by environmental conditions than by harvesting. Since the determination of unshod biomass is so important, the GAP believes that a proper scientific review of this process is imperative.

Mr. Moore noted that $B_0$ is a very important factor in groundfish fishery management as it is a key component in determining if a stock is overfished. He explained, in response to a Council question, that while $B_0$ is based on SSC guidance, this guidance has not received peer review outside the SSC.

G.11.e Public Comment

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

G.11.f Council Action: Consider Need and Process for Bycatch and $B_0$/MSY Workshops

Mr. Brown noted his strong interest in convening a $B_0$/MSY workshop, in line with the concerns expressed by the GAP. He discussed several perceived problems with stock assessments and management specifications affected by current $B_0$ and MSY calculations. He stressed the critical need for a review of these fundamental concepts.

Mr. Bohn noted the SSC and GAP recommendations were polar opposites. He suggested the Council not make a firm decision on the $B_0$ workshop until the March or April 2003 meetings when budget issues will have settled. It appeared to him the bycatch workshop had the momentum to move forward.

Mr. Alverson suggested the focus of the bycatch workshop should be on the results of the bycatch model rather than review of the model itself. Dr. Hastie and Mr. Robinson both noted that it was standard procedure to vet a model for use in the management process. Dr. Hastie also noted the bycatch model was developed rapidly and there has not been time for full documentation of the model and thorough review of the model. It will also be important to consider how to incorporate data from the West Coast observer program.

Dr. McIsaac suggested the Council consider the relative priority of the two workshops, especially given current budget uncertainty and workload. He noted the $B_0$ workshop might be a candidate for the first “off year” under the newly adopted multi-year management process, which would be 2005.

Mr. Bohn moved and Mr. Harp seconded a motion (Motion 27) to support the bycatch workshop, but have a discussion at the March or April meeting about convening a $B_0$ workshop in 2003. Motion 27 passed.

The Council briefly discussed the bycatch workshop, notably the commitment by the NWFSC to assist in funding and logistics. Mr. Waldeck noted the Council expressed their intent to support the bycatch workshop. However, he noted it was still somewhat unclear about who the workshop participants would be, what type of deliverables would be expected from the workshop, and when the Council could anticipate receiving the results of the workshop. It was confirmed that as the terms of the reference for the workshop are developed such details will be determined.

H. Administrative and Other Matters

H.1 Legislative Matters (11/01/02; 10:12 am)

H.1.a Agendum Overview

Mr. Waldeck provided an overview of the agenda topic and read into the record Exhibit H.1.b, Supplemental Legislative Committee Report.
H.1.b Legislative Committee Report

Mr. Waldeck provided Exhibit H.1.b, Supplemental Legislative Committee Report.

Chairman, Dr. David Hanson, called the Legislative Committee to order at 10:07 a.m., Monday, October 28th. The Committee discussed current legislation and related congressional activities. Members of the West Coast congressional delegation have conscientiously worked on fisheries issues, including development of legislative language for removing the Individual fishing quota (IFQ) moratorium and West Coast buyback. In addition, members of the West Coast delegation were instrumental in drafting a letter expressing concern about continuation of the IFQ moratorium and strong support for the ability for certain councils to use IFQs in their fisheries (Exhibit H.1, Attachment 1), this letter was signed by 11 senators.

Despite this congressional activity, it is anticipated that specific fishery-related legislation or Magnuson-Stevens Act reauthorization will not move through Congress in 2002. However, legislative provisions for IFQ programs and West Coast buyback might be included in omnibus legislation, which will likely also include appropriations for fiscal year 2003. The Committee recommends the Council instruct the Executive Director to draft a letter expressing continued strong support for the ability to use IFQs in West Coast fisheries, that there is no express need for IFQ program standards, and to continue strong support for congressionally-supported West Coast buyback.

The Committee also recommends the Council direct staff to continue to track fisheries-related legislation and provide input to congressional staff, as appropriate.

H.1.c Reports and Comments of Advisory Bodies

None.

H.1.d Public Comment

None.

H.1.e Council Action: Consider Council Response to Legislative Issues

Mr. Alverson suggested that, when practical, members of Congress and their representatives should be invited to attend Legislative Committee meetings, especially members from the area in which a Council meeting is held. He opined this would be an opportunity to increase interaction between the Council and Congress and educate members to particular issues of importance to the Council.

Dr. Radtke concurred and noted this is in line with the Council's desire to make the Legislative Committee more active. Mr. Brown also supported Mr. Alverson's statements.

Mr. Brown moved and Mr. Bohn seconded a motion (Motion 29) to adopt the Legislative Committee report as shown in Exhibit H.1.b, Supplemental Legislative Committee Report.

Motion 29 passed; unanimous voice vote.

H.2 Financial Matters (11/01/02: 10:19 am)

H.2.a Budget Committee Report

Mr. Harp provided Exhibit H.2.a, Supplemental Budget Committee Report. The report indicates the Calendar Year 2002 funds are being expended as planned and will be exhausted by year end. Initial funding for 2003 will be provided by a continuing resolution at the current level and the Budget Committee approved a general spending priority to guide staff budget preparation.

H.2.b Council Action: Consider Recommendations of the Budget Committee

Mr. Donald Hansen moved and Mr. Alverson seconded a motion (Motion 30) to adopt the report of the Budget Committee as shown in Exhibit H.2.a, Supplemental Budget Committee Report, including the limited recommendations for budget priorities in 2003. Motion 30 passed.
Appointments to Advisory Bodies, Standing Committees, and Other Forums (11/01/02; 10:22 am)

H.3.a Appointments to Advisory Bodies

Dr. John Coon referred the Council to the situation summary for Exhibit H.3 and noted the following Council actions were required: (1) appoint a nominee to the Washington coastal tribal position on the SAS; (2) respond to the California tribal proposal for sharing the SAS and HC seats; (3) appoint a nominee to the conservation position on the HC; (4) consider possible changes to the composition of the GAP; and (5) direct staff to issue a call for nominations for vacancies on the GAP and HMSAS.

H.3.b Reports and Comments of Advisory Bodies

GAP

Mr. Moore provided Exhibit H.3.b, Supplemental GAP Report. A minority of the GAP favored adding an additional noncharter recreational position to the GAP. The majority of the GAP believes there is ample opportunity for noncharter recreational positions to be considered in the GAP under the present membership.

H.3.c Council Action: Consider Membership Revisions and Appoint New Members

Mr. Harp moved and Mr. Bohn seconded a motion (Motion 31) for the Council to appoint Mr. Calvin S. Frank to serve on the Salmon Advisory Subpanel for the Washington coastal tribes for the period between January 1, 2003 and December 31, 2003. Mr. Frank has been nominated by the Quinault Indian Nation for this position and is the only nomination from the Washington coastal tribes. Motion 31 passed.

The Council received a proposal from the Hoopa Valley Tribe on Friday, October 25, 2002 that proposed additional seats for both the SAS and HC to allow representatives of the Hoopa Valley and Yurok tribes to serve concurrently on each body. After reviewing this proposal, the Council opted to not increase the membership of either the SAS or the HC. Mr. Harp moved and Mr. Bohn seconded a motion (Motion 32) for the Council to continue with Messrs. Dave Hillemeier (Yurok Tribe) and Mike Orcutt (Hoopa Valley Tribe) as the SAS and HC members, respectively, until the term ends December 31, 2003. At the appropriate time, the Council should advertise for both positions to be filled effective January 1, 2004 from nominations of eligible persons that must be affiliated with a federally recognized tribe and must be knowledgeable about the tribal anadromous fishery (SAS) or tribal anadromous habitat issues. Mr. Harp noted this has been a difficult issue in which the Council has been patient while encouraging both tribes to work out a method to share a single SAS seat. Formerly, that seat has been shared by the Hoopa and Yurok tribes through a "gentlemen’s agreement. A proposal to add an additional seat to the SAS (and HC) is not what the Council anticipated and is not acceptable. Motion 32 passed.

Mr. Boydstun moved and Mr. Caito seconded a motion (Motion 33) to appoint Mr. Michael Osmond of the World Wildlife Fund to fill the conservation position of the HC for the completion of the 2001-2003 term. Motion 33 passed.

Mr. Boydstun stated he thinks the Council needs to review the composition of the GAP, especially in regard to recreational representation. However, this issue needs further discussion. He noted further consideration of this question will occur during the review of the composition of all subpanels next September prior to selecting members for the 2004 through 2006 term.

Mr. Boydstun moved and Mr. Donald Hansen seconded a motion (Motion 34) to have staff solicit nominees to fill the vacancies on the GAP (California charter and fixed gear at-large positions) for the remainder of the 2001-2003 term and have the Council take up the matter of GAP composition prior to advertising the positions for the terms beginning in 2004. Motion 34 passed.

Mr. Anderson moved and Mr. Aliverson seconded a motion (Motion 35) that the Council staff put out requests for nominations for the HMSAS northern processor position. Motion 35 passed.

The Council also noted the appointment of Mr. Curt Melcher, ODFW, to temporarily fill the ODFW position on the Salmon Technical Team after the resignation of Mr. Mike Burner.
H.4 Election of Council Chair and Vice Chair (11/01/02; 10:45 am)

H.4.d Council Action: Elect Chair and Vice Chair

The Council unanimously elected Mr. Donald Hansen as Vice-Chair and Dr. Hans Radtke as Chairman for a second one-year term. (Motion 36)

H.5 Council Staff Work Load Priorities (11/01/02; 10:56 am)

H.5.a Agendum Overview

Dr. McIsaac referred the Council to Exhibit H.5, Supplemental Staff Workload Priorities.

H.5.b Council Discussion and Guidance on Council Staff Work Load Priorities

The Council concurred in the staff workload priorities as presented in the supplemental exhibit.

H.6 March 2003 Council Meeting Draft Agenda

H.6.a Consider Agenda Options

Dr. McIsaac referred the Council to Exhibit H.6, Supplemental Draft March Agenda, November 2002.

H.6.b Identify Priorities for Advisory Body Consideration

Dr. McIsaac noted the identification of priority agenda items for advisory body review is provided in the draft meeting agenda.

H.6.c Council Action: Adopt Draft Agenda for the March 2003 Meeting

The Council approved a preliminary draft of the March 2003 Council meeting agenda as presented in Exhibit H.6, Supplemental Draft March Agenda with the addition of a report on the 2003 status and planning for the states' marking programs (coordinated by the Salmon Technical Team). The Council meeting will be held March 10-14, 2003 in Sacramento, California. The meeting agenda primarily includes preseason management for the 2003 salmon and halibut fisheries and consideration of sardine allocation for the coastal pelagic fishery.

4 PM PUBLIC COMMENT PERIOD (10/29/02; 4 pm)

Public comments on fishery issues not on the agenda.

Mr. Guy Grundmeier, Port San Luis Fishermen's Association; San Luis Obispo, California. Talked about other known causes of rockfish mortality. He got his numbers from PacFIN.

Mr. Peter Flourny, International Law Offices; San Diego, California. Talked about NMFS recent request for transshipment of tuna (from the US EEZ to Mexican waters). He wrote a letter to Dr. Hogarth in opposition to that stating that there was US vessels available to do that. Dr. Hogarth replied that they were still going to
allow the request because the PFMC had approved it. Dr. McIsaac offered to speak to Mr. Flournoy later and the Council did make some recommendations at the June meeting for a particular permit.

ADJOURN on November 1, 2002

Hans Radtke, Council Chairman

March 11, 2003

Date