

# MINUTES

## Pacific Fishery Management Council

Hilton Hotel – San Diego Del Mar

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November 2 - 7, 2003

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**A. Call to Order**

A.1 Opening Remarks, Introductions

Chairman Donald K. Hansen called the 171st meeting of the Pacific Fishery Management Council to order at 8 a.m., Tuesday, November 4, 2003.

Note: the Council convened in a closed session on Monday, November 3 at 3:30 p.m.

A.2 Roll Call

Dr. Donald McIsaac called the roll.

Bob Alverson  
Phil Anderson  
Neal Coenen  
Marija Vojkovich  
Ralph Brown  
Mark Cedergreen  
David Gaudet  
Donald Hansen  
David Hanson  
Jim Harp  
Jerry Mallet (Absent)  
Lt. Greg Casad  
Dave Ortmann  
Tim Roth  
Bill Robinson  
Roger Thomas  
Darrell Ticehurst  
Stetson Tinkham (Absent)  
Frank Warrens

A.3 Executive Director's Report

Dr. McIsaac gave a brief overview of items pertinent to this meeting.

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

The Council approved the agenda as shown in Exhibit A.4, November 2003 Council Meeting Agenda. (Motion 1)

## **B. Marine Protected Areas**

### **B.1 Jurisdiction and Authority Issues for Marine Protected Areas (11/04/03; 8:08 am)**

#### **B.1.a Agendum Overview**

Ms. Jennifer Gilden presented the agendum overview.

#### **B.1.b Joint Presentation by NMFS and National Ocean Service (NOS)**

Ms. Rebecca Lent (NOAA Fisheries) and Mr. Jamie Hawkins (NOS) gave a presentation on jurisdictional issues for marine protected areas. They reviewed the four pertinent Acts (the Magnuson Stevens Act, Endangered Species Act, Marine Mammal Protection Act and National Marine Sanctuary Act, or NMSA) and Executive Order 13158. Their major points were that the NMSA gives fishery management Councils the first opportunity to draft fishing regulations for Sanctuaries; that there is an increasing emphasis on ecosystem-based management; and that fishery management is not a primary Sanctuary goal.

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

Mr. Barry Cohen provided Exhibit B.1.c, Supplemental GAP Report.

#### **B.1.d Public Comment, Including Questions to Presenters**

Mr. Barry Cohen, Cambria, CA. Expressed the view that when the Sanctuaries were formed, they were not meant to regulate fisheries. Only the Council, states and NMFS should regulate fisheries. Called for increased collection of baseline data.

Mr. Bob Fletcher, Sportfishing Association of California, San Diego, CA. Said that the Channel Islands Marine Reserves Working Group progress did not come to consensus, and fishermen fear that every productive fishing ground will soon be off-limits.

Mr. Chris Hoeflinger, Ventura County Commercial Fishermen's Association. Felt excluded from the Channel Islands process. Called for increased monitoring and collaboration.

Mr. Chris Miller, former fisheries representative for the CINMS Marine Reserves Working Group. Requested that Sanctuary and/or Council look at socioeconomic data collected by he and Mr. Hoeflinger.

Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association; El Granada, California. Felt that Sanctuaries should not be in the business of managing fisheries.

Mr. Bob Osborn, United Anglers of Southern California. Said that MPAs have been given the reputation of being complete no-take reserves, when that is not always true.

Ms. Kathy Fosmark, Alliance of Communities for Sustainable Fisheries, Pebble Beach, CA. Said the Monterey Sanctuary promised not to get into fishery management. Called for more use of fishermen's knowledge in research.

Mr. Gregory Helms, Ocean Conservancy, CINMS Field Office. Said NOAA did not insist on no-take marine reserves in CINMS; asked about the necessity of looking at removal of biomass from fishing when using spatial management with an ecosystem management approach.

Mr. Bill Sutton, Ventura County Commercial Fishermen's Association. Asked, why wasn't this done 50 years ago? If a zone is closed, no groups should be able to use it.

Mr. Bill James, nearshore commercial fisherman, CA. Fears that "ecosystem management" will add another layer of bureaucracy and meetings to attend. The Council is already focusing on these issues.

Mr. Duncan McLean, Half Moon Bay Fishermen's Marketing Association; El Granada, California. Asked what NOAA is doing to address the high nitrogen content flowing into the ocean from agriculture. (This question was answered by Mr. Bill Douros, Superintendent of the Monterey Bay Sanctuary. The Sanctuary is addressing this.)

Mr. Chris Oliver. Asked when socioeconomic monitoring will begin in CINMS. (Mr. Sean Hastings, CINMS, answered this question. CINMS is addressing this. Some programs are underway).

Mr. Chris Hoeflinger. Asked whether the NOS or Sanctuaries are prepared to develop an MOU with the Council on how they use marine reserves, authority over MPAs, and how peer review will be incorporated into the process. He suggested the Council's Ad Hoc Marine Reserves Committee meet with someone at the NOS to develop an MOU. If the NOS doesn't believe the Council is doing what needs to be done in the Sanctuaries, this could be addressed through such an MOU. (Mr. Hawkins said an MOU was a good idea and could go beyond MPAs to cover a variety of issues.) Dr. Lent said that the MPA FACA Committee that has been formed as part of the Executive Order will provide an opportunity for all the parties to look at these issues. Other ongoing workshops will address these issues as well.)

#### B.1.e Council Discussion, Including Questions to Presenters

Mr. Brown asked if the Council were to say that we don't think that additional management of fisheries is appropriate inside a marine sanctuary, what happens?

Dr. Lent said she assumes that would happen after a Sanctuary invited the Council to prepare fishing regulations, as required by law. If it was decided the regulations needed to be modified because they weren't consistent with NOAA's mandate for Sanctuaries, there could be modifications. The Secretary of Commerce (SOC) is the decision maker, and would have the final say. This could be like the whiting issue, when the SOC modified the decision. The DOC determines the final actions and gets sued if it's not consistent with its mandate.

Mr. Brown said this implies that those who don't want to see changes in fisheries management should bypass the local system and go straight to the SOC.

Ms. Patty Wolf said Sanctuaries and MPA issues are of great interest in California. To follow up on Mr. Brown's question, if regulations made by the Council don't address Sanctuary concerns and then there's a decision made within NOAA, how does the public get to be involved in that process?

Mr. Hawkins said that a situation like that would require a change to the designation document, which is an open and public process.

Ms. Wolf said we have heard concerns about the existing designation documents, and the fact that they now prohibit regulation of fishing activity in Sanctuaries. She thinks it would help clarify matters to know how the designation documents function, how they would be changed, and the process for changing them.

Mr. Hawkins asked Mr. Michael Weiss, Director of Sanctuaries Program, to answer. Mr. Weiss first provided context on the designation documents. With respect to fishing activities, Congress recognized that there might be instances where to achieve the Sanctuaries' mandate of protecting ecosystems, Sanctuaries might have to regulate fishing activities. But Congress also recognized that the Councils have a unique role, and expressly directed the Sanctuaries that if they are going to regulate fishing, they must go through a rigorous process, including approaching the relevant Council and asking them to take the first opportunity to draft fishing regulations.

Mr. Weiss continued, saying the Sanctuaries have limited expertise in fisheries management, but great expertise in ecosystem management. Every Sanctuary has a set of terms of designation that list activities that are subject to present and future regulation, boundaries, characteristics, etc. The California Sanctuaries' designation documents do not give them the authority to regulate fishing. However, the NMSA recognizes that there might be times when the terms of designation need to be changed. The NMSA has a provision which says that to change the terms of designation, Sanctuaries must go through the same procedures as if they were designating an entirely new Sanctuary. It's a rigorous process that involves many parties. The state governor can veto changes that affect state waters. The NMSA requires Sanctuaries to review their management plans every five years to see if anything needs to be changed to achieve the Sanctuary's goals. To make a specific change to, say, the CINMS designation document, there is a lot of public involvement, scoping, review, formal consultations, etc. (He outlined the process in detail.)

Mr. Brown asked, since the process for changing a designation document is the same as for creating an entirely new sanctuary, would a discussion of removing the sanctuary be appropriate? Mr. Weiss said that when they raise the topic of changing the designation document, they're looking at a specific management issue. The question of ending a sanctuary has never come up, and he doesn't know if the NMSA allows for that.

Mr. Alverson noted that the Council has to manage on the best available science, while the CINMS has ecosystem management expertise. We have world class scientists working with the Council. When our scientists did a peer review of the CINMS science, they were hard on them and held them to qualitative and quantitative science to justify a closure. That's where a lot of ire and mistrust has been generated - people don't trust the science behind the closures. It's all over between a 19% and 25% closure. The failure in the process is to not know where the negotiated brinkmanship of this situation was, but the want of 19% - does that bring everyone on board? Or does 25% mean it was a process failure? It seems it was a people-process failure, pushing the bounds of what needed to be done.

Mr. Anderson asked where we go from here? It is clear we are looking for a nice black and white line in terms of jurisdiction and authority, but there is overlapping jurisdiction. How should we change our approach so we can work together to address these issues? While Mr. Hawkins said the Council has the "first shot" at formulating fishery regulations within the Sanctuary, that is not a comforting statement - it presumes there will be a "second shot" that will be taken by somebody else. Regarding collaboration on management plan development, what management plan are you speaking of in terms of where that coordination would take place? In your slide, you talked about "continue NOAA and Council's area-based management efforts." What does that mean? Finally, on the question of formal MOU's - who would they be between? On hearing "the Council gets the first shot, and then we look at it to see if it meets the goals and objectives of the Sanctuary," that appears to be a road to failure. If we do this in a vacuum, without some oversight and consultation with the Sanctuary as we go along in developing these management plans, then the first shot might lead to a second shot and we might not like what we get out of that. We need to figure out a way for the Sanctuary representatives to be involved in our fishery management plans, at least to identify areas of concern so we get an opportunity to address them. Whether we need a formal MOU to do that or not, I don't know.

Mr. Hawkins recognized that a lot of work needs to be done. There is overlapping jurisdiction, which causes problems; Congress recognized it. There is an insistence that the fishery management council be the body that develops the regulations. We want this to be an interactive process. We don't want you to make up regulations alone. Regarding formal MOUs, because it was not business as usual years ago for the NOS Sanctuaries Program to work hand-in-hand with the fisheries program, where that overlap exists, the folks from both organizations (NOS and NMFS?) developed an MOU which was signed about a year and half ago. It talked about working in areas far beyond fishery management council issues. It was to guide us out of the "stovepipe mentality" that NOAA is accused of having. Regarding your question about what management plan we're developing, that's the management plan reviews for the Sanctuaries, which is a public process that includes the PFMC and other interested parties.

Dr. McIsaac asked, regarding MOUs, you mentioned another MOU - the South Atlantic area (between state, the FMC, NOS, and NMFS). (This pertains to the Gray's Reef Sanctuary). Could you speak to the utility of such an MOU for future considerations of marine protected areas inside Sanctuaries, specific to this Council?

Mr. Michael Weiss said the Gray's Reef MOU was very successful. It lays out how the signatories would collaborate on looking at fishing issues in the Sanctuary. It also helps to get the Council more involved in developing our management plan reviews. We have done that type of thing in a micocosm with the CINMS process, where we have the letters back and forth with the timeline and how we work together in the federal process. The next step would be to look at the entire west coast, because the other three Sanctuaries are undergoing a joint management plan review, and fishing issues are being discussed there. It might be helpful to look at a broader MOU including all four sanctuaries - not just for the management plan review, but for ongoing collaboration and coordination, to help define roles and responsibilities.

Mr. Warrens said he hears that many people are concerned that the CINMS process was not open. They feel politically steamrolled. In contrast, the Council places trust in the knowledge and experience of fishermen, the advisory bodies, etc. If there are disconnects in the marine sanctuary program, with the transparency of the process and input by stakeholders, his concern is that not all of the stakeholders are treated equally. In some cases, stakeholders' input is trumped by people with other agendas. The message that needs to get back to D.C. is that concern regarding peoples' input and the effect. People have said that MPAs are a "solution looking for a problem." If problems can be pointed out, we accept the challenge of finding a solution; but not the other way around.

Chairman Donald Hansen thanked the speakers.

B.2. Update on West Coast Marine Protected Areas Issues (11/04/03; 10:33 am)

B.2.a Agendum Overview

Ms. Gilden provided the agendum overview.

B.2.b Scientific and Statistical Committee (SSC) White Paper

Dr. Mike Dalton provided a report on the SSC white paper on marine protected areas.

B.2.c Channel Islands National Marine Sanctuary (CINMS) Marine Reserves Process

Mr. Chris Mobley and Mr. Sean Hastings of CINMS briefed the Council on the progress of considering marine reserves in the federal waters of CINMS. They emphasized that they want the process to

accommodate the Council schedule and provide sufficient opportunity for public involvement; they are beginning to assemble a preliminary draft EIS; and any marine protected areas created would be monitored and managed in an adaptive management context.

Mr. Hastings presented an updated timeline for consideration of marine reserves in federal waters of CINMS. By the March 2004 meeting, CINMS plans to provide a preliminary draft EIS that includes a preliminary range of alternatives. They will also provide two consultation letters: one focusing on changes to the CINMS designation document, and an invitation to the Council to draft fishing regulations.

Mr. Brown said a reasonable alternative would be to make the designation document less restrictive. If CINMS is not planning to analyze such an option, how does it comply with the requirement to analyze a full range of alternatives?

Mr. Mobley said the changes to the designation document were meant to allow the Sanctuary to meet its mandate. The NEPA analysis will be narrowly focused on how to manage the Sanctuary to ensure the long-term sustainability of its resources. The purpose of changing the designation document is to focus on on-the-ground action to achieve Sanctuary goals, not to revise the designation document as a whole.

Dr. McIsaac stated, regarding the schedule, that you say the March and April Council meetings are when the Council might consider preparing fishing regulations. You also said you would try to have a preliminary draft of the DEIS by the March meeting. So if we get the draft in March, there doesn't seem to be enough time to select a preferred option and draft regulations in April. The Council does meet again in June. How rigid is this timeline?

Mr. Mobley encouraged the Council to look at those dates as the beginning of the period for reviewing the NEPA document, drafting fishing regulations and consulting on the designation document. There are statutory timeframes built into those periods, and we are targeting delivery of those documents in acknowledgment of the Council's meeting schedule. We regard those statutory timeframes as minimums, and if the Council needs more opportunity for review, we will work toward that. The designation document consultation involves a 60-day review, and drafting the fishing regulations involves a 120-day review period (minimum). If additional work is needed in reviewing the NEPA document, we will do that work.

Ms. Wolf asked if Dr. McIsaac could explain how he envisions the Ad Hoc Marine Reserves Committee being involved in this process.

Dr. McIsaac said that the Ad Hoc Committee would do the analytical work from a policy perspective and provide a recommendation to the Council, as opposed to having that occur on the Council floor. The meeting would occur when the DEIS is ready, most likely in the early part of next year - once the document is available and has had some review from the technical committees.

#### B.2.d Reports and Comments of Advisory Bodies

##### **HC**

Mr. Stuart Ellis provided Exhibit B.2.d, Supplemental HC Report.

##### **GAP**

Mr. Barry Cohen provided Exhibit B.2.d, Supplemental GAP Report.

#### B.2.e Public Comment

Mr. Chris Miller, former fisheries representative for the CINMS Marine Reserves Working Group.  
Mr. Chris Hoeflinger, Ventura County Commercial Fishermen's Association,  
Mr. Bill James, nearshore commercial fisherman, Keizer, Oregon  
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, California  
Mr. Barry Cohen, Olde Port Fisheries/Del Mar, Cambria, California  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California  
Ms. Kathy Fosmark, Alliance of Communities for Sustainable Fisheries, Pebble Beach, California

#### B.2.f Council Discussion on Update on West Coast Marine Protected Areas

Mr. Alverson asked, how do we encourage that these options we've heard from the public [Mr. Miller and Mr. Hoeflinger] are looked at? Is there a procedure the state of California is taking to look at the option being presented [by Mr. Miller and Mr. Hoeflinger]?

Chairman Hansen said he had asked for the information so the SSC could look at it. Dr. McIsaac said the CINMS people had initiated scoping some time ago, and they have asked people for alternatives. They indicated that if the PFMC has alternatives to add, now would be the time to do so. We have not seen a list of alternatives to be included in the analysis. A draft list will be supplied later for the Council to review. The door is open now; but if the Council would like to suggest alternatives later, when we see the entire list, we could do so.

Mr. Alverson asked, when CINMS comes back to us with the alternatives, is the door still open for options?

Mr. Hastings said yes. When the Sanctuary delivers a draft EIS, the public and any body can comment on it, including the adequacy of the range of alternatives. CINMS wants to involve the Council and others in developing the alternatives before we release the draft document; providing input early in the process would expedite the review process. Both Mr. Hoeflinger and Mr. Miller have come to us with the proposal you've seen, and we can consider those alternatives in this preliminary phase. Whether that comes through the Council process or directly from them doesn't matter.

Mr. Brown confirmed that Chairman Donald Hansen said the SSC would review Mr. Hoeflinger and Mr. Miller's document and have comments on that. He noted that when the SSC reviewed the CINMS documents, their statements were harshly worded. How are we going to weigh those comments as we review the two documents? We want to make sure we're comparing apples and apples.

Mr. Alverson said if the SSC looks at Mr. Hoeflinger and Mr. Miller's option, does that mean the earliest we would have their comments back would be the March meeting? How do their comments get interjected into this process? Dr. McIsaac said the next time the Council would have this before them would be in March, and if the Council wants the SSC to review this, we can put it on the agenda during the planning for the March meeting on Friday.

Mr. Anderson said he understood that once the Council receives the CINMS and SSC review documents, the Ad Hoc Marine Reserves Committee would look at those materials and come back to the Council with a recommendation. They will look at everything that's available to the Council. That meeting won't occur until after the March Council meeting. Dr. McIsaac said he was not sure it would happen after the March

meeting; it would depend on the availability of the DEIS from CINMS. If a draft is available in January, the Committee could meet then. It depends when a document comes forward with the alternatives and some analysis. If it comes during the winter, the SSC could have an off-site meeting to do some analysis before March.

Mr. Anderson said, if we ask the SSC to review items outside that document, he would like them to review all of the documents at once, and not piecemeal.

Mr. Warrens was concerned about the amount of time put into these documents, and this process. Even if we use all the best available information and our advisory bodies' advice, what will prevent NOS (at the behest of another group) from trumping our decision? Is there any safeguard? I'm concerned that we could spend a lot of time on this and have somebody blow us out of the saddle. I would like assurance that won't happen.

Mr. Anderson said the Council will make a recommendation, not the actual decision.

## **C. Habitat**

### **C.1 Current Habitat Issues (11/04/03; 11:41 am)**

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

Ms. Gilden provided the agendum overview.

#### **C.1.b Report of the Habitat Committee (HC)**

Mr. Ellis provided the report of the Habitat Committee, Exhibit C.1.b.

Mr. Brown asked what was meant by "pre-development flows" in the Klamath. Mr. Ellis said it meant before dams and farms were in place. Mr. Brown said he didn't like the reference to a "leaked draft" report. Mr. Ellis said the HC wanted to bring the report to the Council's attention, but the report is not yet final.

Dr. McIsaac asked a question about the benefit of flows to coho salmon. The NAS and IMST reports disagreed on this. What is the nature of the benefit that the IMST found to coho from higher flows? Mr. Ellis said the HC hadn't studied the report in detail, but apparently the NAS did not feel that juvenile coho reared in the mainstem enough to benefit from higher flows, and the IMST report felt that higher flows would benefit coho as they're entering the mainstem to migrate, etc.

Mr. Larson asked if Mr. Ellis could expand on the Hardy Phase II report moving forward. Mr. Ellis explained that there was now funding to complete the report, and the report is moving forward. Mr. Larson asked if the HC had discussed the smolt kill on the Klamath early this year. The HC did not discuss it.

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

None.

C.1.d Public Comment

Ms. Susan Murray, Oceana, Juneau, Alaska  
Mr. Phil Kline, Oceana, Washington, DC  
Mr. Chris Miller, Ventura County Commercial Fishermen's Association, California

C.1.e **Council Action:** Consider HC Recommendations

None.

## D. Groundfish Management

D.1 NMFS Report on Groundfish Management (11/04/03; 1:37 pm)

D.1.a Regulatory Matters

Mr. Bill Robinson provided an update of the regulatory actions that took place between now and the September Council meeting. On October 24, NMFS implemented the inseason actions recommended at the September Council meeting including adjustments to trawl trip limits and RCA boundary changes. NMFS did not do a particularly good job of working with the states to get the correct set of coordinates in place for the RCA management lines. Improvements in coordination and communication between NMFS and the states have been made. Corrective action on the coordinates, if necessary, will be done after tomorrow's agenda item on inseason adjustments. The final rule implementing the Vessel Monitoring System was published in the *Federal Register* today. This week, NMFS is mailing out informational pamphlets to all limited entry permit holders that describe the program requirements. Our enforcement division is finalizing an approval notice listing VMS units authorized for use in the fishery that will also be sent out to all limited entry permit holders when available. The best news to report is the success of the trawl buyback referendum, approved by a substantial margin. All of the 92 vessels whose bids were excepted will have to cease fishing by December 4, 2003.

Mr. Robinson continued with a review of progress on rebuilding plans. Amendment 16-1, the standards and process part was out for public comment through October 17, 2003 and the final rule is in the drafting stage with Northwest Region. On September 19 the Notice of Availability of the DEIS was filed with EPA starting a 45 day public comment period. NMFS is required to make a decision on approval by November 17 for Amendment 16-2. Finally, on September 12 NMFS published a Notice of Intent to prepare an EIS on Amendment 16-3, the next four rebuilding plans.

Mr. Robinson stated that they are scheduling meetings in Newport with state and industry to discuss and develop alternatives for monitoring the shore-based whiting fishery under Amendment 10.

Dr. Elizabeth Clarke gave an update on the NWFSC activities. The trawl survey is complete for this year, ending on the last week of October. NWFSC completed a series of meetings getting feedback from nine coastal port areas on the West Coast Groundfish Observer Program (WCGOP). We generally received very positive feedback from the industry, including ways the program could be improved, and no negative feedback about any of the individual observers. We did receive good feedback on the kinds of research that industry would like to see in conjunction with the WCGOP, including survivability studies for a wider array of species. Industry also requested more detailed or specific descriptions of the various gear types for future analyses of bycatch by specific gear types. During the meetings there were many questions about the

upcoming VMS program. NWFSC is reviewing the list of vessels retired under the buyback program and will work to reassign observer coverage accordingly. There is a bycatch reduction meeting November 19 between the NWFSC, the industry, and the NMFS National Fishing Technology Working Group. Additionally, the Pacific whiting agreement with Canada will be signed at Fish Expo in Seattle on November 21 at 11 a.m. and the Pacific whiting STAR panel is scheduled for next February.

Mr. Brown requested clarification on the dates of the bycatch reduction meeting and Dr. Clarke repeated the information. Mr. Brown asked about the process by which buyback vessels that had participated in the trawl survey will be replaced. Dr. Clarke responded that bids usually go out in January or February and it is still a bit unclear as to whether or not those vessels can still participate in scientific activities. Additionally, NWFSC and the Alaska FSC are holding a small workshop to work on ways to calibrate data between the new survey and the old triennial survey. This could lead to a call for bids for Alaska class vessels for some calibration work as well.

Mr. Robinson reported there is a letter (Supplemental D.1.a.) speaking to the fact that NMFS did not implement a trip limit increase for minor deeper nearshore rockfish as recommended by the Council upon receiving new information in October from the GMT that the fishery was in jeopardy of exceeding the OY.

D.1.b Reports and Comments of Advisory Bodies

None.

D.1c Public Comment

None.

D.1.d. Council Discussion

None.

D.2 Makah Rockfish Enhancement Proposal (11/04/03; 1:46 pm)

D.2.a Agendum Overview

Mr. John DeVore provided the agendum overview.

D.2.b Synopsis of Proposal

Mr. Steve Joner, Makah Tribe; Dr. Michael Rust, NMFS; and Mr. Mark Drawbridge, Hubbs Sea World Research Institute; briefly described the science-based proposal to identify the risks and benefits associated with rockfish enhancement through hatchery supplementation. They will be asking the Council for advice on the types of permits they will be needing. Two questions that will be posed to the Council as this program develops is: 1) Do enhancement fish get included in assessments?, and 2) Can this proposal be included in rebuilding plans?

Mr. Anderson asked what activities would be occurring in the next 12-24 months? Dr. Rust said that was hard to predict. They need to solicit funding, work to establish culture practices, and develop a genetic risk analysis model.

Dr. McIsaac asked what permits would be needed to release cultured rockfish? Dr. Rust said there are policies and permit systems developed in California and Washington, but no such policy or permit system in Oregon or federal jurisdictions.

Ms. Vojkovich asked if the Council does not include this proposal in rebuilding plans, will it kill the project? Mr. Joner said that the project was started before any rebuilding plans were developed and he would prefer their proposal be included in future rebuilding plans. If not, they intend to begin their research and seek inclusion in rebuilding plans later. Mr. Coenen asked Ms. Cooney how this would be incorporated in rebuilding plans? Ms. Cooney said we have the rebuilding plans in the process now; hard wiring this proposal in rebuilding plan alternatives may not work given their tight delivery schedule.

Mr. Anderson asked if they envision releasing cultured fish within the next 12 to 24 months? Dr. Rust said no.

Mr. Brown asked what species they intend to start with in their enhancement program? Dr. Rust said they would use a multi-species approach. They are currently working with canary, yelloweye, brown, tiger, and China rockfish. The final species they will focus on will depend on the numbers that can reasonably be produced, the target release location, etc. Mr. Drawbridge said, for those that missed the tour of Hubbs Sea World Research Institute, they have a fairly long history of this type of research. Their historical work focused on white sea bass and nearshore species.

Mr. Alverson asked for an explanation of the genetic research. Is there an attempt to enhance growth rates? Dr. Rust said they were not trying to select for any traits, but to keep the cultured fish as wild as possible.

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

Mr. DeVore read Exhibit D.2.c, Supplemental GAP Report.

#### D.2.d Public Comment

None.

#### D.2.e **Council Action:** Consider Providing Comments on Makah Proposal

Mr. Anderson agreed with Mr. Coenen's comments relative to the timeliness and readiness of incorporating culture strategies into our rebuilding programs. He expressed the need to let the research proceed in a controlled environment and develop a supplementation policy later. The WDFW Commission has a marine fish culture policy which was adopted in August 2000. One of the foundations of the policy is to rely on natural production to meet marine fish conservation objectives. It does provide the latitude and flexibility to enhance depleted species under certain circumstances and protocols. His hope is to stay in touch with the Makah tribe and ensure releases are done in a manner consistent with the WDFW commission policy. Ms. Vojkovich agreed with Mr. Anderson's comments on his plan at this stage. She also agrees with the GAP's recommendation to develop a supplementation policy before proceeding further.

D.3 Feasibility of Using Real-time Electronic Logbook Data in Groundfish Fishery Management  
(11/04/03; 2:08 pm)

D.3.a Agendum Overview

Mr. Mike Burner gave an agendum overview including the following synopsis of presentations from two producers of electronic logbook software heard during the joint sessions on Monday.

*Mr. Pat Simpson, of Scientific Fishery Systems, Inc. (Scifish) provided an overview of the Electronic Fish Catch Logbook, a cooperative project with the NWFSC that has been in development since the mid-1990's. The software has been developed around existing logbook data from West Coast trawl fisheries. The system is a Windows™ based software program with the ability to transmit encrypted data via email or VMS. The program records catch and bycatch information for multiple hauls within a single trip log. The system has a built in interface with observer data collected on the trip. Depth of the hauls can be automated or average haul depth can be entered by the vessel operator. Vessel position and time of day is accurately polled frequently from GPS. The program generates many reports of use to managers and fishers including, catch and bycatch accounting and quota share reports. The system is ready for testing in a pilot program as soon as vessels can be identified for installation and training and a host shore-based mechanism is in place, (Scifish, PSMFC, NWFSC).*

*Mr. Larry Cotter and Mr. Robert Mikol, of Oceanlogic, presented an Electronic Logbook Program and Vessel Verification System currently being used by approximately 60 trawl and troll vessels in the North Pacific. Vessel position is polled from GPS with a default setting of every 5 minutes. The program was designed with ease of use and informative reporting to the fishers in mind. The program includes evidentiary quality position reports provide smoother track lines than VMS. Data collected with this program cannot be transmitted to shore-based host tracking facility until the vessel returns to port. Therefore, VVS would augment, but not replace, information collected under the real-time reporting format of VMS. The Electronic Logbook Program works in conjunction with plotter programs and reports are generated in both tabular and graphical formats. This allows maps of closed areas to be easily imported into the program. Reports are intended to not only improve data availability for fishery management, but also to help vessels track target species catch and bycatch CPUE allowing more efficient and profitable fishing practices.*

*Both programs reported adequate safety mechanisms to ensure the confidentiality of the data during transmission through email or the web. Additionally, both programs have automated many aspects of the logbook program reducing manual errors and processing costs while improving the availability of data. Implementation of electronic logbook systems will likely involve the installation of additional equipment on vessels and computer training for fishers.*

D.3.b Reports and Comments of Advisory Bodies

**GAP**

Mr. Burner read Exhibit D.3.b, Supplemental GAP Report.

**EC**

Mr. Dayna Matthews reminded the Council that electronic logbooks are not reported realtime and are not a substitute for VMS. VMS position reports are reported in real time and many units include at least a basic

ability to upload catch information in addition to the position report. The advantage of this type of system is that much or all of the necessary equipment would already be on board and the only expense would be the additional software from the vendors.

Mr. Anderson asked about the reference in the situation summary of the use of electronic logbooks in the North Pacific. He asked where the funding for the North Pacific programs came from. Mr. Matthews said he was uncertain.

Mr. Robinson asked if the low cost VMS units currently approved have the ability to report realtime catch information. Mr. Matthews responded that the low cost units currently approved do have basic two way capabilities that fall short of full email, but with the addition of an optional touchpad, information on net deployment and retrieval as well as catch data can be transmitted using codes.

#### D.3.c Public Comment

Mr. Robert Mikol, OceanLogic, Juneau, Alaska

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

#### D.3.d **Council Action:** Consider Feasibility and Further Steps

Mr. Brown said we have been involved in the discussion of electronic logbooks for a long time and thought NMFS was putting together a pilot program at the cost of one million dollars using spreadsheets and various data transmission methods. He felt there has been enough effort on developing realtime data for commercial fisheries, a technology that is unnecessary as we do not need information that quickly under our current management. Additionally, there is not true real time in Alaska, those files need to be processed once the vessel returns to port. Mr. Brown felt that what we really need is an upgraded fish ticket system and better information on recreational fisheries.

Dr. David Hanson suggested combining discussions on the use of electronic logbooks with individual quotas as a trawl ITQ program will need realtime data systems as discussed at the last Ad Hoc Trawl Individual Quota Committee meeting. Dr. Hanson suggested getting the states together to address the changes in the fish ticket and logbook systems, including standardized and streamlined reporting. He proposed discussing electronic logbooks at a proposed meeting of the TIQ committee in January or February of 2004.

Mr. Brown said he feels that electronic logbooks would be accepted by the fleet. It is currently difficult for vessel operators to analyze their paper logbooks. Electronic logbooks could help vessel operators improve their fishing techniques more quickly. Mr. Brown reiterated the importance of real time reporting of fish ticket information, particularly in relation to individual quota systems.

Mr. Darrell Ticehurst stated that the Council should clearly define existing data requirements and simply allow the free market to develop the systems to deliver it.

#### D.4 Observer Data Flow for Fishery Years 2004-2006 (11/05/03; 1:04 pm)

##### D.4.a Agendum Overview

Mr. Jim Seger provided the agendum overview.

#### D.4.b NMFS Report

Dr. Clarke, NMFS NWS Center, provided a powerpoint presentation indicating that 2002-2003 observer-year data and related models will be available April 2004 for Council use in inseason modeling and preseason modeling for the 2005-2006 fishery. The 2003-2004 observer data and related models will be available April 2005 for inseason modeling. The 2004-2005 observer-year data and related models will be available November 2005 for modeling the 2007-2008 fishery and inseason modeling for the end of 2005 and 2006. The 2004-2005 observer-year data will be truncated at the end of June 2005, leaving out the last two months of the 2004-2005 observer-year. This will be the start of a new observer data cycle that will run from July through June of the following year. The 2005-2006 observer-year data and related models will become available for Council use in November 2006, just prior to implementation of the 2007-2008 fishing regulations. By the time the 2007-2008 regulations are being developed it is expected that bycatch estimates will be available for all sectors of the directed groundfish fisheries. During discussion, Dr. Clarke indicated that the center would be happy with releasing the data every two years but the request they had received was for annual releases.

#### D.4.c Reports and Comments of Advisory Bodies

##### **GAP**

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

##### **GMT**

Ms. Michele Robinson provided Exhibit D.4.c, Supplemental GMT Report.

##### **SSC**

Dr. Steve Ralston provided Exhibit D.4.c, Supplemental SSC Report.

#### D.4.d Public Comment

Mr. Phil Kline, Oceana, Washington DC

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon

Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

Mr. Dan Wolford, fisherman, Los Gatos, California

#### D.4.e Council Discussion: Provide Guidance for Integrating New Data into the Management Process

Mr. Brown noted that there would be a release of new observer data and models in November of 2006, after the time the Council takes final action on 2007-2008 regulations but just prior to the implementation of those regulations. He expressed concern about how the new information would be incorporated into the management cycle in such a situation. Mr. Anderson noted and expressed support for the group that will be getting together over the winter to address issues related to the incorporation of bycatch data preseason/inseason. He clarified that this group would address recreational and commercial data from all sources.

## D.5 Status of Groundfish Fisheries and Inseason Adjustments (11/05/03; 1:50 pm)

### D.5.a Agendum Overview

Mr. Burner provided the agendum overview.

### D.5.b Groundfish Management Team (GMT) Report

Ms. Michele Robinson provided Exhibit D.5.b, Supplemental GMT Report.

Ms. Vojkovich asked for clarification on the estimates provided on the first page, specifically how many waves are represented. Ms. Robinson stated that they are all through Wave 5 (September-October).

Mr. Alverson quoted the GMT statement on page 3 relative to lingcod generally moving shallower than 100 fathoms in the winter months and asked for the rationale for the non-trawl RCA limit at 200 fathoms. Ms. Robinson stated that for the area north of 46°16' N Latitude the line is recommended at 200 fathoms because a 150 fathom line has not been established for that area, otherwise the recommendation would have been 150 fathoms. Ms. Robinson clarified that the triennial trawl survey data suggest lingcod are shallower than 150 fathoms in the winter and that the GMT statement suggests that lingcod move into depths of around 100 fathoms, not depths less than 100 fathoms. Additionally, the referenced paragraph in the GMT statement reports that the GMT cannot quantify lingcod impacts in non-trawl fisheries including fixed gear fisheries.

Mr. Brown requested QSM numbers for shortspine that the GMT statement references as less than projections through mid-October. Dr. Hastie reported that the range considered in September was between 674 mt to 694 mt of shortspine thornyheads through the end of period 5. The most recent QSM is reporting 646 mt through mid-October. At the current rate of 30-40 metric tons per two weeks, the fishery will be near the low end of the range by the end of the year. However, there is considerable uncertainty about landings at the end of the current period. Mr. Brown asked for the 2003 shortspine OY. Dr. Hastie reported 754 metric tons.

Dr. McIsaac asked about Option 1 which anticipated near zero impacts to lingcod and canary rockfish and why the listed fisheries that would remain open do not include tribal fisheries. Mr. Harp reported that he felt that tribal fisheries were nearly complete and asked Mr. Steve Joner to confirm. Mr. Joner reported that two of the tribes, including the Makah, are currently conducting the last of their sablefish fishery using longline gear. Additionally, the mid-water trawl fishery will continue for a few weeks, weather permitting and reported that the fishery has harvested roughly 350 pounds of canary rockfish and 175,000 pounds of yellowtail rockfish. Mr. Brown requested that Mr. Joner comment on widow rockfish bycatch in the tribal mid-water trawl fishery. Mr. Joner reported about 500 pounds of widow rockfish and stated that the tribes only opened areas that were thought to be low in canary and widow bycatch and only allowed two vessels with one observer at first to confirm low bycatch of these species.

Mr. Tom Barnes provided Attachment 1 CDFG Technical Report (attached to the GMT report).

Mr. Ticehurst asked about the substantial catches listed in Table 3 during waves 1-3 when the fishery was closed. Mr. Barnes stated that the catches either reflect catch north of Cape Mendocino where the fishery was open, or in the case of areas south of Cape Mendocino, illegal catch. Samplers in the field did observe illegal species in the catch during closed periods. Additionally, the numbers reported represent examined landed catch (catch type A) and reported dead catch (discards or filleted at sea, catch type B1). Mr. Ticehurst asked if the canary rockfish catches listed south of Cape Mendocino where canary rockfish retention was prohibited where all illegal landings. Mr. Barnes stated that approximately on third of the reported value

would be from the B1 catch type, additionally, a portion of the estimate could be effort out of ports such as Fort Bragg that traveled north of Cape Mendocino and caught fish legally but were sampled south of Cape Mendocino.

Dr. McIsaac asked for clarification on lingcod and referenced the value of 30.5 metric tons for lingcod south of Cape Mendocino during the closed period as illegal catch. Mr. Barnes confirmed.

Mr. Anderson noted that the 42 metric ton OY for canary rockfish is incorrect. Mr. Barnes confirmed that the OY value for canary rockfish in 2003 is 44 metric tons.

Mr. Thomas asked if there were any records that indicate that fish caught north of 40°10' N Latitude were landed in Fort Bragg. Mr. Barnes stated that his example was only hypothetical in an effort to explore possible explanations for catches in a closed period. Mr. Barnes stated he could not confirm to what degree this occurs. Mr. Thomas stated that he felt that there is effort out of Fort Bragg that occurs north of 40°10' N Latitude.

Mr. Robinson referenced the 1985 value used as the next highest year of effort in the analysis that resulted in 33% less effort and asked what portion of the 1985 fishing year was open to recreational fishing. Mr. Barnes reported that 1985 was almost certainly a full year of opportunity.

Mr. Roth asked if CDFG has compared recreational effort for salmon and groundfish. Mr. Roth reported that he had heard that effort for salmon was down substantially in 2003 and wondered if some of that effort may have transferred into the groundfish fishery. Mr. Barnes reported that CDFG did look at effort estimates for salmon and non-salmon trips from the Ocean Salmon Project but he could not recall what the ratio was. Mr. Roth was curious if there was any historical record of high groundfish catch and effort in years of low salmon catch and effort.

Mr. Alverson referenced the MRFSS telephone survey system and asked if people were volunteering information about illegal catches over the phone. Mr. Barnes clarified that the telephone system simply estimates effort and that catch and species composition is derived from field examination of bags.

Mr. Ticehurst asked what the wave 4 sample size was. Mr. Barnes did not have the value at hand.

Dr. McIsaac referred to the area south of 40°10' N Latitude and asked if total effort is broken out by trip type as much of the effort in this area is focused on HMS species. Mr. Barnes reported that effort estimates are total and include all fisheries such as HMS in the south and salmon in the north.

#### D.5.c Reports and Comments of Advisory Bodies

##### **GAP**

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

##### **EC**

Captain Mike Cenci provided Exhibit D.5.c, Supplemental EC Report.

#### D.5.d Public Comment

Mr. Bob Strickland, United Anglers, Surfside, California  
Mr. Tom Ghio, Ghio Fish Company, Moss Landing, California  
Mr. Gerry Richter, B & G Seafoods, Santa Barbara, California  
Mr. Danny Strunk, Pierpoint Sportfishing, Long Beach, California  
Mr. Marion Larkin, trawler, Mount Vernon, Washington  
Mr. Kenyon Hensel, commercial fisherman, Crescent City, California  
Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, California  
Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California  
Mr. Bill James, commercial nearshore fisherman, Avila Beach, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California  
Mr. Bob Ingles, Golden Gate Fisherman's Association, San Francisco, California  
Mr. Bob Osborn, United Anglers of Southern California, San Jose, California  
Mr. Dan Wolford, fisherman, Los Gatos, California (powerpoint)  
Mr. Randy Frye, Recreational Fishing Alliance, Sacramento, California

#### D.5.e **Council Action:** Consider and Adopt Groundfish Inseason Adjustments as Needed

CDR. Fred Myer noted that unfortunately both Options 1 and 2 present the safety challenge of forcing vessels further offshore to fish. Additionally, he stated that we have already entered the harsh weather season. His comments were intended to reflect a letter the USCG presented two years ago when RCA's were first being considered.

Mr. Brown noted that he finds it ironic that people who have routinely argued for tighter restrictions and tougher fisheries management are now they are here asking for leniency. Hopefully, those people will reflect on the positions they have taken and see if that is really the position they want to live with in the future.

Mr. Anderson, in response to the safety issue, stated that the trip limits currently offered outside the RCA are more liberal than nearshore limits. Therefore, at least with the fleet based in Washington, the decision of where to fish is largely driven by the vessels capabilities. Those vessels not fishing outside the RCA are not doing so because they do not have the capability to do so, regardless of what the weather conditions are.

Chairman Donald Hansen asked about the transition away from the MRFSS system.

Dr. McIsaac noted there are some changes for MRFSS which will be detailed under D.7. At the September, 2002 meeting in Portland, Dr. Hogarth said he would retain funding to develop a new program as of January 1, 2004 and MRFSS will not be used for fishery management purposes. The MRFSS program will occur in 2004 for the purpose of calibrating historic data.

Mr. Coenen suggested a modification to Option 2, including a restriction of the Oregon recreational fishery to the area inside 27 fathoms with no retention of lingcod or canary rockfish as a place to start considering a motion under this agenda item. The state would also take action to close the trawl prawn fishery to minimize the effect of the fisheries that do remain. Mr. Coenen made his recommendation a motion (Motion 7). Mr. Frank Warrens seconded the motion.

Mr. Brown asked if the motion were to include the GMT recommendations for the trawl and fixed gear fisheries. Mr. Coenen confirmed.

Mr. Alverson said he was uncomfortable imposing any restrictions on the trawl and fixed gear fisheries north of California. When you look at the information in the GMT report, the catches occurred south of Cape Mendocino, yet we are imposing restrictions in the north, and he did not see the justification to support the GMT's options. The information presented is very weak. At the last meeting in September we were presented with a lot of data from the observer program and chose not to use it for the rest of this year, and now we have questionable information driving massive restriction.

Mr. Brown did not disagree with Mr. Alverson's comments. Mr. Brown stated that he thought there were several instances when the commercial fleet took reductions because that was the only place available for reductions. He agreed with Mr. Alverson that California has to be responsible at some point for the management of their fisheries; but we also appear to be over the OY and into overfishing again. He assumed Mr. Coenen's motion is for the state of Oregon only and thinks California should take action; we need to hold the appropriate fishery sector responsible.

Dr. McIsaac stated that the motion was to adopt Option 2 with modifications to the Oregon recreational fishery which means that the motion is not just for Oregon, but is in fact coastwide.

Mr. Coenen confirmed that the motion includes the coastwide provisions under Option 2 and said the modification pertains to Oregon recreational fisheries only.

Mr. Anderson stated that accounting for recreational catches is an extremely difficult thing to do. He is hopeful that efforts to improve the survey system will bear fruit in the future but for now, the dilemma is having data we find suspect including concerns regarding its reliability and accuracy. We have heard a lot of frustration with the data and having to rely on the MRFSS estimate. Unfortunately, we don't have an alternative database to use today, leaving us in a very poor situation. There has been a lot of effort within the RecFIN Data Committee to make MRFSS as accurate as possible. There may be in the future a desire for more regional management, but that is a discussion for another day. He supported the motion by Mr. Coenen. He would like to offer a friendly amendment to allow the Washington recreational fishery to remain open inside 25 fathoms for the remainder of the year with the current bag limits which have no canary retention and the Washington lingcod fishery is already closed. The maker and the seconder accepted.

Ms. Vojkovich stated that this has been an agonizing three weeks for her staff. They have tried several ways to try to validate the information before us. They have looked at other data sets such as salmon fishery information, warden interactions, and the Coastside Fishing Club data set. CDFG provided to the GMT the best alternatives to the MRFSS data set they could come up with. The prospect of closing fisheries we anticipated being open for 6 months this year is difficult. Considering closures in other sectors and other states has been miserable. She is hopeful the new program going online next year will give everyone more confidence in the numbers. However, there is the possibility that the estimates from the new system could be equal to or higher than MRFSS estimates. She supported the motion and asked for a friendly amendment to allow the recreational sanddab fishery to continue as it is strictly fishing in sandy areas with gear types that are unlikely to impact species of concern. The commercial fishery for sanddabs will remain open. The maker and the seconder accepted the friendly amendment.

Mr. Thomas supports Ms. Vojkovich on the sanddab issue. He agreed with the public testimony that the MRFSS data is no good. Therefore, he could not support the motion.

Mr. Ticehurst also does not support the motion due to concerns about the data. He referred to the report by Mr. Barnes that suggested some of the data points were probably outliers. In order to verify that type of information, he recommended looking at an alternate source of data such as that presented by the Coastside Fishing Club. That report seemed to be accurate as the ports went back to their financial records to get the

information. Harbor after harbor, the data does not support the MRFSS data. There seems to be a lot wrong with the MRFSS data and it is irresponsible to take action using it. There seems to be significant evidence that fishing effort was much smaller, perhaps by at least a tenth.

Mr. Robinson said the MRFSS data collection system is an albatross and we all share frustration and anger about having to use a data system for a purpose for which it was not designed to be used. From that standpoint he is glad we will be able to make changes to the data systems so we can get confidence in our data. He reminded the Council that we have used MRFSS data in stock assessments and to close fisheries and make management decisions in the past. Therefore, it would be inconsistent to not use the MRFSS data now when there are very difficult decisions before us, an inconsistency would be difficult to justify in the record. He agreed with Mr. Anderson's comments concerning a lack of an alternative data source that has been reviewed by the SSC and the GMT allowing us to ground truth these estimates. Even though we have doubts about the values reported in MRFSS, there has not been anything put in the record that would discount the possibility that the wave 4 estimate is not the highest on record; it may or may not be accurate. From the standpoint of fulfilling our obligations of staying within rebuilding OY targets and preventing overfishing, we have to take an action like the one considered here today. Initially, he felt that Option 1 was the only way to go. He now feels Option 2 is a possibility due to the small impacts combined with the value of the winter fishery and the petrale accommodations. He stated some discomfort with the three recreational modifications to Option 2. This is not because he does not believe the impacts are minimal, rather it is because the new proposals have not gone through the GMT for review. Those recommendations could go through the GMT and be included in the analysis and the documents brought forward during Council action. All things considered, he feels this motion is the best we can do and with some misgivings, he supports the motion.

Mr. Alverson moved to strike the second bullet which reads "Change the non-trawl RCA to extend from the shoreline to 150 fathoms". Mr. Coenen asked for the rationale. Mr. Alverson explained that the operations at least on the north coast of the RCA are limited this time of year and for the next 6 months so the impacts on lingcod are minimal. However, as the coast guard indicated, we are into bad weather and there is a small longline fleet and the danger to the fleet is greater than the savings you are going to achieve. Additionally, he noted the exemptions made in the recreational fishery off Washington and Oregon assume low effort due to weather and a low release mortality rate for those lingcod that are caught. These same arguments have been recognized for the commercial longline fleet.

Mr. Coenen could not agree with Mr. Alverson's friendly amendment because it drives up impacts on canary rockfish which is unacceptable and is the reason for the GMT recommendation as presented. Mr. Alverson asked if we understand the canary rockfish impacts if we allow the Washington and Oregon recreational fishery to continue. Mr. Coenen reiterated the calculations presented by Mr. Don Bodenmiller of ODFW of 0.11 metric tons of canary rockfish and 0.09 metric tons of lingcod for a fishery inside of 27 fathoms.

Mr. Anderson said their recreational fisheries are essentially closed due to weather this time of year. Our samplers can't find anyone to sample. We are talking about a few people fishing off the jetty's. The amount of boat traffic out in the ocean is undetectable.

Mr. Robinson stated that his staff had provided him some information on lingcod distribution from the trawl survey. This summer survey found that only 33% of the lingcod encounters occurred outside of 150 fathoms and only 2% were encountered outside of 200 fathoms. There are seasonal changes to distribution of lingcod but there is still a considerable number of lingcod between 150 and 200 fathoms and therefore, he too is uncomfortable with the recommendation from Mr. Alverson.

Mr. Brown asked Ms. Vojkovich if the trawl sanddab fishery off of San Francisco is included in her friendly amendment to the motion. Ms. Vojkovich said that without any input from the GAP, it is her understanding that she was only speaking to the small hook and line fishery in southern California.

Mr. Alverson noted, relative to the summer survey mentioned by Mr. Robinson, that the NMFS representatives on the GMT did not raise these objection in their statement. The statement does say that lingcod move into shallower areas in the winter and he still feels that the rationale for leaving the sport fisheries open applies to the longline fleet.

Mr. Anderson made a correction to his friendly amendment. The provision in the 2003 regulatory package for Washington stated that if the fishery was projected to exceed expected impacts on canary or yelloweye rockfish, the fishery would be restricted to areas inside of 25 fathoms. It is also his understanding that the 25 fathom line was not analyzed, meaning the coordinates were not included in the NEPA analysis.

Mr. Burner stated that the 25 fathom line was analyzed as a depth contour but not with coordinates.

Mr. Anderson said if not being analyzed in the NEPA document is a problem for implementing the 25 fathom line he would modify his friendly amendment to use the state line at three miles. Mr. Anderson decided to modify his friendly amendment to use the three mile line rather than the 25 fathom line.

Mr. Coenen asked about the depths in the area of the 3 mile line. Mr. Anderson answered that is about 15 fathoms in the central part of the coast and as deep as 20 fathoms in the northern part of the coast. Mr. Coenen accepted the friendly amendment as did the seconder Mr. Warrens. Mr. Warrens asked if it affects the state of Washington only as Oregon has defined a 27 fathom line. Mr. Anderson confirmed that his friendly amendment is only for areas north of 46°16' N Latitude .

Chairman Donald Hansen said this is a great opportunity to consider area management for the entire coast.

Mr. Anderson asked if he could include some other items in the motion. There was some discussion about what to do with the B platoon and he recommended the changes in the RCA line be applicable to all vessels regardless of platoon when the changes are enacted. The maker and seconder agreed.

Mr. Burner asked for clarification on the motion. He clarified that the motion only includes the Option 2 portion of the GMT report ending just before the paragraph on "trip limits" on page 3 and asked if that was the intent. Additionally, there was mention of the closure of the prawn trawl fishery in Oregon. Mr. Coenen included the trip limits section of the GMT report in the motion and stated that Oregon prawn trawl fishery was not included because Oregon intends to close that fishery under state action. The maker and seconder agreed.

Dr. McIsaac reviewed the motion to adopt Option 2 from Exhibit D.5.b, Supplemental GMT Report with the following modifications. The Oregon recreational fishery will be restricted to areas inside the 27 fathom line with no retention of canary rockfish and lingcod. The Washington recreational fishery will remain open inside of three miles for the remainder of the year. The California recreational and commercial hook and line sanddab fishery in southern California would remain open. Additionally, changes to the trawl fishery would be applied to all vessels at the same time regardless of platoon, and the motion includes the trip limit recommendations on page three of the GMT report as well as a recommendation to close the Oregon trawl prawn fishery.

Mr. Anderson noted that the motion also includes a prohibition on canary retention in the Washington recreational fishery.

Motion 7 passed by voice vote.

#### D.6 Cabezon and Lingcod Stock Assessments and Lingcod Rebuilding Analysis for 2005-2006

##### D.6.a Agendum Overview (11/05/03; 4:47 pm)

None.

##### D.6.b Reports and Comments of Advisory Bodies

#### **SSC**

Dr. Steve Ralston provided Exhibit D.6.b, Supplemental SSC Report.

#### **GAP**

Mr. Tom Ghio provided Exhibit D.6.b, Supplemental GAP Report.

##### D.6.c Public Comment

Mr. Bill James, fisherman, Keizer, Oregon

##### D.6.d **Council Action:** Approve Cabezon and Lingcod Stock Assessments and Lingcod Rebuilding Analysis for 2005-2006

Mr. Robinson expressed his frustration with the late arrival of new commercial passenger fishing vessel (CPFV) data to the cabezon STAT team and the SSC. He recommended a more rigorous stock assessment process.

Ms. Vojkovich said there is additional missing cabezon data that will be supplied to the STAT Team. The state of California will make their data available as soon as possible. Ms. Vojkovich said she thought the revised assessment would be available by the March Council meeting. She asked if we should establish a broad range of OYs for these two species for planning 2005-2006 specifications and management measures now or wait to do that in March when we get the revised assessment? Mr. DeVore said the GMT was privy to the SSC's recommendations and recommended a broad OY range for lingcod and cabezon. The range is adequate to encompass what might result from the new assessments.

Mr. Coenen moved and Mr. Warrens seconded a motion (Motion 8) to accept the SSC recommendations as presented in Exhibit D.6.b, Supplemental SSC Report and urge that the stock assessments for cabezon and lingcod come to the Council for action at the March meeting. One SSC recommendation is to have the groundfish subcommittee review the cabezon and lingcod stock assessments prior to the March 2004 Council meeting. Motion 8 passed.

Mr. Warrens asked when can we implement some sort of subdivided OY or regional harvest guideline strategy to avoid the premature fishery closures we have had this year? He asked whether the Council could discuss this at this meeting? Mr. Robinson said it would be appropriate to have the discussion at another

meeting. Mr. Warrens assumed that was correct, but wanted early warning to the public to avoid this situation next year. Chairman Hansen said that could be brought up during the workload/agenda administrative items on Friday.

D.7 Update on Recreational Fishery Information Network (RecFin) Data Improvements (11/06/03; 8:13 am)

D.7.a Agendum Overview

Mr. Jim Seger provided an agendum overview based on the situation summary.

D.7.b RecFin Report

Mr. Russell Porter, RecFIN coordinator for PSMFC, and Ms. Debbie Aseltine-Neilson, CDFG (new state member on the GMT), provided an overview of changes that are occurring in the West Coast recreational data system. During discussion, Council members expressed concern about biases in the estimate of CPUE that might result from the likelihood that anglers with high CPUE would be encountered more frequently than anglers with low CPUE. Mr. Porter noted that statistical adjustments are made to address this problem. Concern was also expressed about the use of species composition and CPUE information from interceptions during the day as an estimate for the species and CPUE that might be associated with boat trailers left in the parking lot at night. Another concern was that sites might be sampled during an exceptionally high effort day and the result extrapolated to low effort days. Ms. Neilson indicated their intent to do 24-hour and other studies to validate assumptions or develop correction factors to address some of these problems. CDFG welcomes help on these studies and has been in contact with individuals interested in providing that help.

During further discussion it was explained that January catch data will be available in March and data on the fishery through April should be available at the June meeting. The program will have estimates of groundfish bycatch in nongroundfish target fisheries.

D.7.c Reports and Comments of Advisory Bodies

**SSC**

Dr. Kevin Hill provided Exhibit D.7.c, Supplemental SSC Report.

**GAP**

Mr. Seger read Exhibit D.7.c, Supplemental GAP Report.

D.7.d Public Comment

Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, California  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

D.7.e Council Discussion on RecFin Data Improvements

Mr. Anderson addressed the SSC comment on the need to update recreational data sets for stock assessments and asked how that would be accomplished. Mr. Seger reviewed the specifics of the RecFIN technical committee recommendation that there be a joint meeting between the technical committee, GMT representatives and stock assessment authors to address the question of what recreational data should reside

in a centralized standardized system to serve Council needs and what data elements should remain in the state system. This question had been posed to the Council on previous occasions but a comprehensive response had not yet been communicated. Dr. Clarke indicated that she would address the issue under D.9.

**D.8 Preseason Management Schedule and Process, Acceptable Biological Catch (ABC), Preliminary Optimum Yield (OY), and Management Measures for 2005-2006 Fisheries (11/06/03; 1:08 pm)**

**D.8.a Agendum Overview**

Mr. DeVore provided the agendum overview. Mr. DeVore noted there are three action items associated with this agendum.

The Council decided to first consider and adopt a preseason management schedule for 2005-2006, then consider and adopt a preliminary range of harvest levels, followed by consideration and adoption of a preliminary range of management measures.

**Preseason Management Schedule and Process**

**D.8.b GMT Report on Estimates of ABC and OY**

Ms. Robinson provided Exhibit D.8.b, Supplemental GMT Report 1, the proposed management schedule and process for developing 2005-2006 specifications and management measures. Ms. Robinson explained that the GMT had some concerns with the RecFIN estimates and data feeds. They are planning to meet with RecFIN staff during the February 2004 GMT meeting to resolve these issues.

Ms. Vojkovich asked who from RecFIN would attend and whether this meeting would require additional money and resources? She also asked whether the GMT was the appropriate body to review RecFIN issues? Ms. Robinson responded that the GMT uses RecFIN and individual members have RecFIN issues that need resolution. Ms. Vojkovich stated this is a workload challenge for CDFG staff. She asked whether these issues could be addressed without a meeting? Ms. Robinson replied that Mr. Russell Porter also wanted to convene a meeting with the GMT.

**D.8.c Recommendations of the States, Tribes, and Federal Agencies**

**States**

None.

**Tribes**

Mr. Harp provided Exhibit D.8.c, Supplemental Tribal Report.

**D.8.d Reports and Comments of Advisory Bodies**

**SSC**

Dr. Kevin Hill provided the portion of Exhibit D.8.d, Supplemental SSC Report that dealt with the proposed management schedule.

Dr. McIsaac asked if the GMT-requested recreational impact modeling review by the SSC was problematic? Dr. Hill responded yes, there are many other competing SSC activities. Dr. McIsaac asked if the SSC could do this review at the March Council meeting? Dr. Hill said yes, if time permits.

## **GAP**

Mr. Moore provided the portion of Exhibit D.8.d, Supplemental GAP Report that dealt with the proposed management schedule.

### **D.8.e Public Comment**

No public comment on the preseason schedule and process.

### **D.8.f Council Action: Adopt Preliminary Harvest Levels, Management Measures, and Preseason Management Schedule for 2005-2006**

Mr. Anderson noted that the lack of approved assessments, new observer data, and new, revised bycatch models has impeded the progress anticipated for this meeting. Since the Council will not be able to adopt a refined range of management measures at this meeting, we are reverting to a two-meeting process. He asked what the Council could do to rectify this? It is his feeling that if we added an Allocation Committee meeting to this process prior to the March Council meeting, the results of this meeting could be included in the material for the April Council meeting. That might put the Council in a better position at the April Council meeting. The Allocation Committee could also discuss the revised cabezon and lingcod assessments, management response to the trawl buyback program, new observer data, and other issues relevant to 2005-2006 management decision-making. He suggested we add that meeting the week prior to the March Council meeting. Dr. McIsaac asked if he meant to convene the Allocation Committee the week prior to the April or March Council meetings? Mr. Anderson said he preferred earlier progress, which means the meeting should occur prior to the March meeting. Dr. McIsaac said the schedule shows the SSC reviewing the revised assessments and new bycatch models at the March meeting with final SSC review, if needed, between the March and April Council meetings. He thought the Allocation Committee would benefit from this SSC review and therefore expected that the Allocation Committee should meet prior to the April Council meeting. Mr. Anderson said the week after the March Council meeting is a North of Falcon meeting. He also expects a big groundfish agenda with final action on salmon at the April meeting.

Mr. Alverson asked if we would be able to compare fixed gear bycatch effects inside and outside the non-trawl Rockfish Conservation Area (RCA) once the new fixed gear observer data is available? Dr. Hastie said he wasn't certain since he has not seen the new data yet; however, he would attempt that comparison. He added that we have the depth information for the gear sets observed. The comparison will depend on the extent of the data to statistically represent the two areas. He noted the need to adopt a new fixed gear bycatch model in March since we need to set sablefish tier limits prior to the April 1 start of the primary season. The option was presented to delay the opening of the sablefish primary season until May 1 so limits could be specified in April, but the Council elected not to.

Dr. McIsaac returned to the issue of timing an Allocation Committee meeting and suggested it would be good to adopt a process and schedule for groundfish as is done for salmon management. The obligations of the salmon management cycle make it difficult to pick a particular week for convening the Allocation Committee. He suggested the week of March 22. Mr. Anderson said it is a perfect miss in the salmon management cycle since the first North of Falcon meeting is schedule for the week of March 15.

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 10) to adopt the process outlined in Exhibit D.8.b, Supplemental GMT Report 1 with the addition of an Ad Hoc Allocation Committee meeting the week of March 22 for the 2005-2006 groundfish fishery management cycle. Motion 10 passed.

### **Range of 2005-2006 Acceptable Biological Catches (ABCs), Preliminary Optimum Yields (OYs)**

The Council then began consideration of a range of harvest levels for the 2005-2006 management period.

### **GMT**

Mr. DeVore provided Exhibit D.8.b, Supplemental GMT Report 3, the recommended range of 2005-06 ABCs and OYs and the rationale for recommending these specifications. Ms. Robinson clarified the rationale for the recommended range of lingcod harvest specifications.

Mr. Brown asked for the basis of the Pacific cod ABC? Mr. DeVore said he thought it was based on the highest catch in recent years. Mr. Anderson read the annual catches from the most recent SAFE document and Pacific cod catches have been less than the OY in the last twenty years.

Mr. Brown asked about the difference in the Other Flatfish complex ABC in 2004 versus 2005-2006? Dr. Hastie explained he had applied a discard rate to determine a total catch specification for the Other Flatfish complex. He stated this specification may need to be adjusted because discard mortality for species in the Other Flatfish complex is less than 100% . Mr. Brown noted that the precautionary reduction in ABC (to determine OY) for Other Flatfish is consistent with the recommendations in Restrepo et al. However, sanddabs, for instance, are not readily caught in conventional trawls because the size at 50% maturity is about 4 inches. A similar situation exists for rex sole and other species in the complex. Therefore, the 50% precautionary reduction for the Other Flatfish complex recommended by the GMT may not be completely justified because the ABC is probably not close to MSY. These species are inherently different than rockfish where a 50% reduction in the ABC for unassessed stocks is a more reasonable precautionary adjustment.

Mr. Robinson asked if the recommended harvest specifications for darkblotched, canary, POP, and lingcod have the same the  $T_{TARGET}$  and harvest control rule adopted under Amendment 16-2? Mr. DeVore said the  $T_{TARGET}$  and harvest control rule for darkblotched, canary, and POP remain unchanged with the exception that the harvest control rule for darkblotched and POP were changed during the 2004 specifications setting process. Amendment 16-1 outlined this process of changing strategic rebuilding parameters during the annual/biennial specifications setting process.

Ms. Robinson clarified that the Other Fish specification is a landed catch OY, not a total catch OY. Mr. Brown asked whether the Other Flatfish specifications were landed or total catch OYs? Ms. Robinson said the recommended specifications for 2005 and 2006 are total catch OYs while the 2004 specification was a landed catch OY.

Ms. Robinson read the portion of Exhibit D.8.b, Supplemental GMT Report 2 that concerned ABCs and OYs.

Ms. Vojkovich asked if the lingcod values on page 4 of Supplemental GMT Report 2 resulted from the deliberations between the GMT and SSC? Do these values reflect the SSC responses to those questions posed by the GMT? Ms. Robinson said the range of harvest levels in GMT Report 3 reflect a range recommended by the GMT designed to encompass possible incomes, but do not reflect any SSC conclusions regarding plausible outcomes. Likewise, the values on page 4 of GMT Report 2 show a possible harvest guideline stratification north and south, but were not influenced by any feedback from the SSC.

Mr. Brown asked if the Pacific cod specifications in Supplemental GMT Report 3 represented total catch or landed catch? Dr. Hastie said they were landed catch specifications. In response to an earlier question, Dr. Hastie said recent (1999-2002) landings of species in the Other Flatfish complex have been about 2,700-2,930 mt. Landings of Other Fish have been about 1,300-2,500 mt with the lower catch observed last year. Mr. Anderson noted that the Canadian Department of Fisheries and Oceans specifies a 240 mt Pacific cod TAC (total allowable catch) for the 2002-2003 season. They also have a seasonal area closure with the stated objective to rebuild the stock.

## **SSC**

Dr. Hill read the portion of Exhibit D.8.d, Supplemental SSC Report that considered ABCs and OYs.

## **GAP**

Mr. Moore read the portion of Exhibit D.8.d, Supplemental GAP Report that considered ABCs and OYs.

Mr Brown asked Mr. Moore to elaborate on the GAP statement that lack of attainment of sablefish and yellowtail allowable harvest in recent years should result in an increased OY in 2005-06, not a decreased OY. Mr. Moore said that biomass projections in assessments are based in large part on a certain catch history with the assumption that fishing mortality will not change. However, if fishing mortality goes down because the fishery is constrained, then biomass should increase. The declining trend in these two species with assumed mortality not changing is erroneous.

## **States**

None.

## **Federal**

None.

## **Tribes**

Mr. Harp read Exhibit D.8.c, Supplemental Tribal Recommendations.

### **D.8.e Public Comment**

Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, California

Mr. Brad Pettinger, Oregon Trawl Commission, Astoria, Oregon

### **D.8.f Council Action**

Mr. Anderson moved (motion 11) that the Council adopt the ABCs and OYs as shown in Exhibit D.8.b, Supplemental GMT Report 3 with the following modifications:

1) Pacific cod: the 3200 mt ABC and 1600 mt OY for the Low OY alternative and a High OY alternative of 3200 mt for the ABC and the OY;

2) Sablefish: the Low OY value of 4,930 mt be raised to 6,500 mt which is consistent with the OY adopted two years ago;

3) Defer specifying the range of harvest levels for the species that will be coming up under rebuilding review agenda item 14 (widow, cowcod, yelloweye, and bocaccio);

4) Other Flatfish: a Low OY ABC value of 12,000 mt and an OY of 6,000 mt, and a High OY value equal to the 2004 ABC/OY;

5) Same for Other Flatfish; [Other Fish?]

6) Indicate our preferred OYs as those consistent with the 2004 adopted values with exception of lingcod, cabezon, and the four rebuilding species.

7) Lingcod: include an alternative that separates the OY in the north and south. Plug in the values on the Table 1a, page 4, after those values have been identified in the new stock assessment.

Mr. Alverson seconded the motion.

Mr. DeVore asked a few questions for clarification. On the sablefish Low OY, the ABC was based on an  $F_{60\%}$  harvest rate. When re-specifying the OY for the Low OY alternative to 6,500 mt, would you be specifying the ABC using the default  $F_{45\%}$  harvest rate (i.e., same ABC as for the Medium OY and High OY alternatives)? Mr. Anderson said yes. He did not remember the ABC of two years ago, but we did apply a precautionary reduction from the ABC.

Regarding the modified lingcod specifications, should the north/south area specifications be regarded as harvest guidelines? Mr. Anderson said he meant to say harvest guidelines, not OYs.

Mr. DeVore said he was confused about the proposed specifications for Other Flatfish and Other Fish in the motion and asked for that part of the motion to be restated. Mr. Anderson said his intent was to halve the ABC to determine the OY in the Low OY alternative and structure the High OY alternative to be representative of status quo. However, he was thrown off by the difference in the recommended range of harvest specifications to the 2004 status quo specifications for these two complexes. The initial confusion in the motion regarding Other Flatfish and Other Fish was cleared up in that the motion intended to specify the High OY alternative for both complexes using a total catch specification with the OY equal to the ABC. For Other Flatfish, the ABC and the OY would be set at 12,000 mt for the High OY alternative. For Other Fish the ABC and OY would be set at 15,000 mt for the High OY alternative. The proposed Low OY specifications for Other Fish were 15,000 mt for the ABC and 7,500 mt for the OY. However, there was still some confusion on the intent for specifying the Other Flatfish specifications under the Low OY alternative. Mr. DeVore recommended that Dr. Hastie be consulted to answer the uncertainty regarding discard mortality and recommend Low OY specifications for this complex.

Mr. Coenen asked whether the motion intended the north/south split on lingcod to be recalculated for the Oregon/California border? The GMT report depicts the harvest guideline split at Cape Blanco. The answer was yes.

Dr. Hastie clarified the Other Flatfish recommendation. The intent was to convert the OY specification from a landed catch OY (i.e., the 2004 specification) to a total catch OY (i.e., 2005-06 specifications). This accommodates traditional levels of discard for the species in the complex. He has not analyzed the discard mortality of Other Flatfish yet, but would like to recommend a range of specifications that would encompass those with a discard mortality adjustment. The High OY specifications seem adequately high in the range. It may be appropriate to specify a lower ABC and OY under the Low OY alternative to ensure the range is adequately broad. He recommended setting the ABC for the Low OY alternative at the 2004 level. Mr. Anderson and Dr. Hastie debated this point and ultimately decided to specify a 6,000 mt ABC and OY under the Low OY alternative and a 12,000 mt ABC and OY under the High OY alternative.

Ms. Vojkovich asked if the motion incorporated both Table 1 (2005 specifications) and Table 2 (2006 specifications) in Exhibit D.8.b, Supplemental Report 3? Mr. Anderson said yes.

Ms. Vojkovich asked if we adopt the table and the changes, including the lingcod harvest guideline, do we still have the option of using the regional management approach for other species prior to adoption in April or is it just lingcod that would be managed more regionally? Mr. Anderson said he should remove the portion of the motion that dealt with the harvest guideline and leave that for the 2005-06 management measures discussion and leave the lingcod ABC/OY range as part of the motion.

Mr. DeVore recommended just a little more discussion of the Other Flatfish Low OY specifications. He did not believe the motion was completely following Dr. Hastie's intent. Dr. Hastie suggested structuring the Low OY ABC at the current 7,700 mt and the OY at half the ABC. That would encompass the range by assuming a 0% discard mortality under the Low OY scenario and 100% discard mortality under the High OY scenario. Mr. DeVore said the recommendation would be specifying a 7,700 mt ABC and a 3,850 mt OY under the Low OY alternative and a 12,000 mt ABC and OY under the High OY alternative. Mr. Anderson said that sounds good and modified the motion accordingly.

Mr. Brown asked for a friendly amendment to the motion to specify the status quo 2004 specifications for yellowtail under the High OY alternative? Mr. Robinson reminded the Council that this recommendation, originally from the GAP, was inconsistent with the current policy to not adjust OYs for previous under- or over-attainment. The policy is to only adjust OYs based on a new, approved assessment. Mr. Anderson and Mr. Alverson said they would accept the friendly amendment with the provision that the Medium OY alternative for yellowtail (3,896 mt for the ABC and the OY) is preferred.

Mr. Brown asked whether the motion included the following 2006 specifications for sablefish: under the Low OY alternative the ABC would be 8,175 mt and the OY would be 6,500 mt? The maker and seconder agreed.

Motion 11 passed.

Mr. Anderson moved to reconsider the previous action on the preliminary 2005-06 harvest specifications (Motion 12). Mr. Brown seconded the motion. Motion 12 passed.

Mr. Anderson moved to modify the yellowtail rockfish ABC and OY such that only the alternative of a 3,896 mt ABC and OY is analyzed for 2005 and a 3,681 mt ABC and OY is analyzed for 2006 (Motion 13). The rationale for removing the 4,320 mt alternative (status quo) is the policy of not revising ABCs/OYs based on underages/overages in previous years has been strongly and successfully argued in recent litigation. Therefore, it would be consistent to remove that alternative with the understanding the 2004 specifications would be analyzed as status quo in the NEPA document. Ms. Vojkovich seconded the motion.

Mr. Brown agreed with the motion and stated that Mr. Robinson's argument was compelling

Mr. Anderson said the other part of the motion that was previously adopted and still stands was the indication that the Medium OY alternative was preferred for all species and complexes other than widow, bocaccio, cowcod, yelloweye, cabezon, and lingcod.

Motion 13 passed.

## **Range of 2005-2006 Management Measures**

### **GMT**

Ms. Robinson presented the portion of Exhibit D.8.b, Supplemental GMT Report 2 that considered a recommended range of 2005-2006 management measures.

### **GAP**

Mr. Moore presented the portion of Exhibit D.8.d, Supplemental GAP Report that considered a recommended range of 2005-2006 management measures. He made the point that the GAP had not seen the revised range of 2005-2006 ABCs/OYs (Exhibit D.8.b, Supplemental GMT Report 3) when they recommended future assessments during agenda D.9. Now the GAP recommends a new yellowtail assessment.

#### **D.8.e Public Comment**

Ms. Janice Green, Recreational Fishing Alliance, Umpqua, Oregon  
Mr. Peter Huhtala, Pacific Marine Conservation Council, Astoria, Oregon

#### **D.8.f Council Action**

Mr. Coenen moved (Motion 14), for purposes of analysis, to include canary retention in the Oregon recreational fishery as an alternative and an alternative that converts the Oregon selective flatfish trawl EFP into regulations. This alternative would allow access of selective flatfish trawl gear into the RCA with only the observer coverage from the NMFS Observer Program and not require full retention or bycatch caps. Mr. Frank Warrens seconded the motion.

Mr. Brown mentioned there were a number of additional commercial and recreational management measures recommended for analysis in the GMT report. Are these included in the motion as well? Mr. Coenen said his motion is only specific to the topics addressed.

Ms. Vojkovich asked if the GMT recommendation on page 6 of Supplemental GMT Report 2 to consider converting the California selective flatfish trawl EFP into regulations as an inseason action in 2005, pending review of the EFP results, is included in the motion? Mr. Coenen said yes, he would include that.

Mr. Alverson said there was a problem with allowing fishing opportunities in the RCA without bycatch caps and 100% observer coverage. Mr. Coenen said his motion just presents an alternative for analysis. Mr. Brown stated the RCA was created to avoid rockfish. If the gear doesn't catch rockfish, then there should be no RCA restriction. Ms. Vojkovich asked if the selective flatfish gear would undergo a gear certification process before it goes into regulations? Mr. Coenen replied the GMT covered that and it would be expected there would be a gear certification requirement if these regulations were implemented. Mr. Robinson asked if the selective flatfish recommendation in his motion is just an alternative? Mr. Coenen said yes, the GMT recommendation to only allow RCA access with 100% observers and bycatch caps should also be analyzed as an alternative.

Mr. DeVore asked if the motion included converting the Washington arrowtooth trawl EFP into regulations? Mr. Coenen said while he doesn't oppose this, it was not part of his motion.

Mr. Anderson asked for a friendly amendment to add a one fish canary bag in the Washington recreational fishery along with a no canary retention alternative to the analysis? This was agreed to by the maker and seconder of the motion.

Mr. DeVore asked if the motion specified a one canary bag limit alternative in Oregon? Mr. Coenen said yes.

Dr. McIsaac restated motion 14. 11/6/03; 3:54 pm

Ms. Vojkovich asked for a friendly amendment to include in the motion the GAP recommendation to not place constraints on the trawl trip limit analysis with respect to analyzing effects of the buyback program. She also asked for the California selective flatfish EFP provisions as noted in the Supplemental GMT Report 2. Additionally, she wanted inclusion of analysis of the California nearshore complex with respect to aggregating/disaggregating some or all of the species in the deeper nearshore, shallow nearshore, California scorpionfish species' assemblage. The maker and seconder accepted the friendly amendment.

Mr. DeVore asked for clarification of the friendly amendment. Should there be an analysis of both the GAP and GMT recommendations regarding the California nearshore complex? Ms. Vojkovich said yes, analyze both sets of recommendations.

Mr. Anderson asked for a friendly amendment to include all the GMT's recommendations for analysis, including the recommendation to analyze lingcod harvest guidelines separated at the Oregon/California border. The maker and seconder accepted the friendly amendment.

Ms. Vojkovich asked why would we choose to establish regional harvest guidelines for just lingcod and not include other species? We have an Allocation Committee meeting in March and this regional management concept could be a focus in that meeting. Mr. Anderson agreed the concept of species' harvest guidelines should be analyzed. The analysis should include other species and not be limited to lingcod. They discussed the difficulty of analyzing lingcod harvest guidelines when the specifications are unsettled pending adoption of a new assessment. They agreed to analyze the conceptual basis of regional management and wait for new specifications.

Mr. Anderson asked for GMT feedback on the parts of the motion that are problematic. Ms. Robinson said the GMT could meet to discuss this, but the motion was not clear. The motion was clarified in that it included all the GMT recommendations, the original motion language from Mr. Coenen, and the GAP recommendations regarding the analysis of trawl trip limits as a result of buyback and the California nearshore issue.

Ms. Cooney mentioned that Ms. Vojkovich's request to implement California selective flatfish trawl regulations inseason would be a slightly different procedure.

Motion 14 passed. 11/06/03; 4:14 pm

The Council revisited this agenda item for further clarification and refinement on Friday.

Mr. Moore, Ms. Robinson, and Mr. Barnes came to the podium to ask questions of clarification and provide GAP and GMT feedback.

The first question from Ms. Robinson was with regard to converting Oregon's selective flatfish trawl EFP into regulations. The GMT noted that a new gear stratum needs to be added to the Observer Program and

the trawl bycatch model before the SSC reviews the analysis. With limited resources, the GMT requests that ODFW staff do this analysis. Mr. Coenen said they would be happy to do that. The SSC said they would be relying on ODFW as well for bycatch rates.

Ms. Robinson noted the GAP recommendation to remove brown, copper, and olive rockfish from the California deeper nearshore rockfish complex was problematic. Mr. Barnes said the GAP refers to these three species as shelf species, but they have been put in the deeper nearshore rockfish complex. Moving these species out of the deeper nearshore complex would have significant implications with regard to state and federal jurisdiction. They are identified in the California nearshore FMP as deeper nearshore rockfish. The California Fish and Game Commission (CFGC) has taken action to establish a permit system for deeper nearshore rockfish with qualifying criteria to land coppers, browns, and olives. He was not clear on how to analyze splitting these species out of the complex. They would need the CFGC to decide to change the nearshore FMP and alter the permit system. The allocation implications of this action and recalculation of OYs are significant problems. Ms. Vojkovich said her interpretation of her friendly amendment did not include pulling out brown, copper, and olive rockfish from the deeper nearshore complex. Her intent was consistent with the GMT recommendation to consider re-stratifying the deeper nearshore rockfish, shallow nearshore rockfish, and California scorpionfish complexes. Mr. Brown thought these were shelf rockfish species. If these species are nearshore rockfish, then it doesn't make sense to pull them out of the deeper nearshore complex. Mr. Moore said these species have been traditionally caught on the shelf, but have been specified as nearshore species. Since the first step to comply with the GAP recommendation would be to remove them from the FMP as nearshore species, he would therefore withdraw the recommendation.

Ms. Robinson said the GMT intent in their area management recommendation was to identify "hotspots" of high density of depleted species to consider closing to recreational and fixed gear fisheries. Mr. Moore said the GAP will support this analysis although it was thought the issue concerned area-specific harvest guidelines. Mr. Brown expressed concern with the GMT statement regarding "focusing fisheries in areas of high abundance of target species". He would rather see smaller no-take areas with fishing allowed in larger areas. Mr. Coenen thought the issue was regional management. He considers area management means to focus on smaller specific areas. Ms. Vojkovich said she wanted to see a regional management analysis. Dr. McIsaac said there should therefore be analyses of regional management and area "hotspots".

Ms. Robinson noted the Council's direction on a regional management analysis would be to look at regional harvest guidelines for lingcod and other species. The GMT wants to know what other species? This analysis would be particularly difficult if stock assessments do not have a geographic delineation. Mr. Coenen said the black rockfish allocation between Oregon and California should stand and the lingcod analysis is clear. He recommended the analysis of regional management for other species should be a lower priority as the states may be able to address those things. Mr. Brown noted that, at one point, the canary stock was divided north and south in assessments. The issue here is allocation. Mr. DeVore said Mr. Brown is correct in that there were separate north and south canary assessments in the past. However, the most recent assessment was coastwide. Mr. Anderson said the broader issue was allocation of harvest guidelines. We need a good faith effort to adhere to harvest guidelines and a discussion of management effectiveness of managing harvest guidelines by area to gain a common understanding. Mr. Brown said that was his understanding. If this process gets more rigid, then we need a three-meeting process to allocate harvest. Mr. Robinson agreed with Mr. Anderson and underscored the need to understand the regulatory response if harvest guidelines are exceeded inseason. We need to explicitly state in the Federal Register what is a harvest guideline vs. an OY. Mr. Anderson said if it appeared the Washington recreational fishery would exceed their canary or yelloweye harvest guideline, then the fishery would be restricted to depths less than 30 fm inseason. Dr. McIsaac said this is the first meeting of a three-meeting process. The question is what other species should be so analyzed? Mr. Anderson said he would want to provide the GMT some flexibility. He suggested they use the 2004 bycatch scorecard to distribute overfished species' impacts between sectors as a start. Mr. Moore

replied the GAP needs to be intimately involved if these distributions become hard bycatch caps. Ms. Robinson asked if that includes all the overfished species in the scorecard? The Council consensus was yes.

Ms. Robinson asked how the GMT should model alternative catch sharing regimes for specific species described in the statement? Should they use the results of the 2004 scorecard or the 2004 analysis results?

Mr. Anderson said the 2004 scorecard should be used but it is important to compare other management regimes such as the one canary bag limit vs. no retention as an example.

Dr. Hanson said he has been increasingly concerned about friendly amendments. This causes problems and confusion. They should be used for correcting typographic errors, etc. He recommends the Council consider limiting the use of friendly amendments.

#### D.9 Planning of “Off-year” Non-regulatory Science Activities (e.g., Stock Assessment Models, $B_0$ , and $B_{MSY}$ Workshops) (11/06/03; 9:41 am)

##### D.9.a Agendum Overview

Mr. Mike Burner referred to Exhibit D.9 and provided a review of the agenda item and the reference materials (Exhibit D.9, Attachment 1, Transition to Biennial Management Process Under Adopted Alternative 3 and Exhibit D.9.b, Supplemental NMFS Report).

##### D.9.b NMFS Report

Dr. Clarke provided a powerpoint presentation.

Mr. Brown referred to the recommendation under agenda item D.8 to reduce the OYs for unassessed stocks such as the other flatfish category by 50%. Given the potential impact that would have on industry he asked if there was any recommendation to do an assessment of rex sole. Dr. Clarke stated that the request can be included in the list of candidates and stated that the species oriented Stock Assessment Working Groups are considering rex sole along with other unassessed species. These groups will need to first do a review of the available data before determining whether a stock assessment can be accomplished. This is an unknown at this time and is a focus of work in 2004.

Mr. Alverson asked if the “group numbers” listed on page 1 are intended to imply priority. Dr. Clarke stated that the group numbers are no indication of priority and only group like species together in an attempt to create efficiencies and to allow authors of assessments of similar species to easily share information on both assessed and unassessed species. This list is simply a proposal to give people an idea of what the upcoming assessment schedule looks like and the determination of what will be a full versus updated assessments has not been done.

Dr. McIsaac appreciated the planning efforts for the stock assessment process and asked about the planning of off-year activities. He stated that stock assessment planning for the 2007-'08 process will likely be a topic for the March or April meetings in 2004. Dr. Clarke stated that the list of upcoming assessment was presented mainly to provide rationale for the three workshops being proposed by the NWFSC.

Dr. McIsaac noted that in the previous agenda item on RecFIN updates, there were several references to incorporating the new information in stock assessments and asked if Dr. Clarke could speak to this issue. Dr. Clarke suggested that this coordination occur at the stock assessment data workshop proposed for June of 2004. However, it would be useful to engage a subset of assessment authors and/or the SSC groundfish

subcommittee prior to June to ensure that the new data will be useful to the stock assessment authors prior to the workshop. Author and stock specific data issues can then be more easily addressed in June.

Dr. McIsaac referred to the  $B_0$  and  $B_{MSY}$  workshops that the Council has delayed until a possible scheduling during an off-year and asked about the possibility of conducting these two workshops in conjunction with the three workshops proposed for the improvement of the stock assessment process. Dr. Clarke stated that the  $B_0$  and  $B_{MSY}$  workshops are worthy activities but felt that in this first year of attempting a large amount of assessments, she felt the priority should be on the three workshops presented in her report.

Mr. Anderson asked Dr. Clarke if she was requesting the state agencies to help identify stock assessment authors for assessment where a lead author has not been specified. Dr. Clarke stated it would very helpful and would like to know if the Council would like her to return at the March meeting with a more refined list so that there could be a more focused discussion then. Dr. Clarke felt it would be helpful for the states to identify stock assessment authors between now and March. Mr. Anderson also asked if the states should begin planning for state representation on the three workshops planned for 2004. Dr. Clarke felt that would also be helpful as the workshops will have to begin working very quickly after the March meeting for the data workshops to be held in June. Chairman Donald Hansen stated that the Council will consider this item when planning the March agenda on Friday of this week.

#### D.9.c Reports and Comments of Advisory Bodies

##### **SSC**

Dr. Kevin Hill provided Exhibit D.9.c, Supplemental SSC Report.

##### **GMT**

Ms. Michele Robinson provided Exhibit D.9.c, Supplemental GMT Report.

##### **GAP**

Mr. Moore provided Exhibit D.9.c, Supplemental GAP Report.

Mr. Brown asked if the GAP had seen the GMT recommended changes for other flatfish OYs when they developed the list of additions and deletions from the list of stocks recommended for assessment. Mr. Moore stated that they had not. Mr. Brown assumed that those developments could change the GAP list of priorities. Mr. Moore stated that it could but would like to hear the rationale for the OY changes when that agenda item comes up.

Mr. Anderson asked about the GAP recommendation for deleting arrowtooth flounder and petrale sole from the list. Mr. Moore stated that these two species are commercially important but they appear to be in good health and their respective OYs have not been attained due to conservation measures for overfished rockfish species. It seems reasonable to assume that these stocks are in even better shape than last assessed because fishery related mortality has been below expectations. Mr. Anderson was concerned about concentrated effort on petrale sole in spawning areas and we are also looking at ways to expand arrowtooth opportunities as a result of lessons learned in ongoing EFPs. Mr. Moore stated that the last assessment for petrale sole found that even under unconstrained petrale sole opportunity that included times and areas of spawning, the stock was healthy and was expected to stay that way. Currently there are constraints to this fishery,

particularly in the summer, and there are petrale sole areas in the winter that are currently off limits due to concerns about canary rockfish bycatch. Relative to arrowtooth flounder, the Washington trawl representative, who has been involved with the EFP, felt that there were no stock concerns and felt that arrowtooth flounder should not be a priority with such a heavy workload scheduled.

#### D.9.d Public Comment

None.

#### D.9.e Council Discussion and Guidance on Planning of "Off-year" Non-regulatory Science Activities

Mr. Robinson noted the statutory requirement for a two-year review of rebuilding plans. Amendment 16-1 is to be considered for approval in the next week or so and if approved will require the development a set of review standards for each rebuilding species. Amendment 16-2 will be considered in January, 2004 and if approved the first two year review would have to occur in 2006. Mr. Robinson asked for Council concurrence with a request of the SSC to develop the standards and criteria to be used to conduct that review. The SSC could decide to take the task or could ask the STAR panels for the rebuilding species to develop the review standards. We need to be ready with the appropriate standards and criteria for these reviews.

Mr. Brown stated that another topic related to stock assessments will be considered under agenda item D.8. There are species that we have chosen not to do assessments on due to the fact that we are unlikely to achieve OYs with current legal gear. It appears there may be some movement to restrict the OYs of those species and it is unclear at this point what effect that will have on fisheries. As part of the discussion on  $B_{MSY}$ , we should include species such as sanddabs and rex sole that mature at about six inches in length and are not caught in great numbers.

Mr. Anderson noted it appears to him that the possibility for failure in trying to do 27 assessments in a single year is very high and he felt we should look at paring the list down and think about criteria we could use in prioritizing the assessments. The other issue is that he has heard six different potential meetings or workshops come forward through this discussion, including the three proposed by Dr. Clarke: an SSC groundfish subcommittee meeting on incorporating CRFS data, the  $B_0$  and  $B_{MSY}$  workshops; and Mr. Robinson's suggestion of the biennial review of the rebuilding plans. He suspects many of the same people will be involved with these workshops and felt it makes sense to get started on some of the items over the winter.

Dr. Clarke said we cannot do all of the workshops being considered with the existing people. The three that were proposed in her presentation and the whiting STAR panel is all the workload the scientists can handle. Additionally, she felt that 27 stock assessments represent the maximum number being considered and suspects we will need to complete less when the final list is developed.

Mr. Anderson asked about the ability to have the SSC groundfish subcommittee address the incorporation and calibration issues of MRFSS conversion to CRFS. Dr. Clarke said she felt this could be done as a short activity and that the SSC could develop the standards in the TOR for the STAR panel process as part of the data modeling workshop.

D.10 Vessel Monitoring System (VMS): Transiting Requirements and Expansion of the Program  
(11/06/03; 10:26 am)

D.10.a. Agendum Overview

Mr. Mike Burner referred the Council to Exhibit D.10. In addition to the two supplemental reference materials already distributed, the Council was provided with Exhibit D.10.c Supplemental NMFS Report, the *Federal Register* notification of the final rule implementing the VMS program beginning January 1, 2004.

D.10.b Report of the Ad Hoc VMS Committee

Mr. Dayna Matthews provided Exhibit D.10.b, Supplemental Attachment 1.

Mr. Brown asked about the declaration requirements for pink shrimp trawlers. Mr. Matthews stated that all shrimp trawl vessels must file declaration reports.

Mr. Robinson asked if a lack of transiting requirements would have an effect on the committee's recommendations on expanding the program to sectors such as the open access longline fleet. Mr. Matthews felt that the lack of transit requirements would reduce the effectiveness of the expansion, but the committee did not discuss this issue.

Mr. Robinson asked for an update on the type of units approval process. Mr. Matthews stated that the final rule on VMS, published this week, has a list of units previously approved for use around the country. Additionally, two low cost units have been approved and the *Federal Register* notice will be published next week.

Mr. Robinson asked for confirmation that the VMS data could be blended with the observer data to get a better understanding of the spatial distribution of fishing effort. Mr. Matthews stated that system is capable of transmitting position reports, electronic logbook information, and observer data, all of which could have scientific applications.

Mr. Alverson asked whether the committee includes the daily trip limit fishery in its consideration of expanding to the open access sector. Mr. Matthews confirmed that they had.

Mr. Warrens reported a conversation he had with head of NMFS Office of Law Enforcement regarding concerns about VMS. Specifically in regard to how stringent enforcement was going to be on issues such as haul back in areas near a management line as well as drifting issues within a closed area. The response was that any alleged violation was going to be considered on a case by case basis and the policy was not to pursue vigorous prosecution unless a pattern of non-compliance had been established. It would be helpful to have a known policy discussed if not in writing. Mr. Matthews felt that NMFS has been consistent with this policy through the development of the program. The intent is to investigate each case individually and citations will not simply be sent out each time an incursion is detected. Each case will be reviewed on at least three levels by many people.

D.10.c Reports and Comments of Advisory Bodies

**GAP**

Mr. Moore provided Exhibit D.10.c, Supplemental GAP Report.

## EC

Cpt. Mike Cenci, provided Exhibit D.10.c, Supplemental EC Report.

Mr. Brown asked if there were any provisions for a vessel to declare its intent to anchor within an RCA. Mr. Matthews stated that there is not, anchoring falls within the same category as drifting.

Mr. Alverson asked if will there be any provisions for weather conditions that force vessels into RCAs. Mr. Matthews stated that if the situation is an emergency due to weather, fire, or man overboard you do what you have to do to survive and the case will be considered later. It does not mean an automatic violation. There is always room for accommodation where it is reasonable to do so.

### D.10.d Public Comment

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon  
Mr. Tom Ghio, commercial fisherman, Moss Landing, California

### D.10.e. **Council Action:** Provide Guidance on Transiting Requirements and Expansion of the VMS Program

Cdr. Myer stated that this is a difficult issue that weighs enforcement versus safety. Safety is first and everyone's responsibility. The vessel needs to be aware of their position and is required to have a lookout person at all times. Regulations that push vessels further offshore creates a safety issue. As far as vessels entering a closed area, the USCG will consider all factors including bad weather, before recommending a case to NMFS enforcement.

Mr. Anderson said the issue for him is the recognition that depth area management is a tool that allows provisions for fishing opportunity. We need to maintain the integrity of the RCAs to realize the savings on overfished species. VMS is an important tool maintaining the integrity of depth based management. He is hopeful that additional tools can be developed to aid with issues such as drifting in a closed area in the future. Based on the comments of the enforcement consultants and the ad hoc VMS Committee he does not feel that provisions for drifting are possible for 2004.

Mr. Brown noted Mr. Anderson said a lot of what he was going to say and would like to see consideration given to issues of drifting, anchoring, and system improvements in the future.

Mr. Robinson pointed out the Hawaiian longline VMS program is run by the USCG and has developed an ability to distinguish drifting and fishing over the course of 10 years. He did not profess to be an expert on safety and feels it is difficult to address. He felt it is important to provide the basic tools enforcement needs to maintain the integrity of the depth-based closures. This is not the end of the issue. All parties involved should continue to work together to improve the fishery. Mr. Robinson made a motion to expand the transiting-only provision that currently applies to the trawl fleet to all vessels that are required to carry VMS units, including a recommendation to the enforcement groups to use appropriate discretion and take into account extenuating circumstances in the application of this tool. (Motion 9) Seconded by Ms. Vojkovich.

Ms. Vojkovich suggested regular progress reports on the VMS program.

Mr. Alverson said this motion brings the fixed gear fleet with the trawl fleet under similar regulations and he supports the motion. He reiterated that there is the issue with finding adequate crews on the West Coast.

He asked for a report in June from the EC which would include a discussion on the ability to detect drifting versus fishing activities.

Mr. Brown supported the motion. He explained we are facing the choice of closing the fishery or using VMS. We heard we could not enforce the RCA without VMS. Therefore, he is voting in favor even though he has trouble with VMS in general, he is doing what he can in keeping the industry open.

Mr. Burner said the language in the final rule specifying transiting requirements for the trawl fleet also includes language on required gear stowage provisions. The EC has stated that gear stowage provisions are unnecessary for fixed gear vessels. He asked if the motion for the fixed gear fleet would omit the requirements for gear stowage. Mr. Robinson confirmed that the motion does not include provisions for gear stowage.

Motion 9 passed by voice vote.

Mr. Anderson noted there was discussion about having a report come back to the Council. He suggested that the ad hoc VMSC could compile the information and flesh out issues that arise as the program is implemented and report back to the Council. Chairman Hansen concurred.

Mr. Burner asked if the Council had any further guidance on the expansion of the VMS program.

Mr. Robinson did not include future expansion in his motion and did not agree on the VMSC recommendations. However, he felt it would be wise get a little experience with the limited entry fleet before we take that step.

Mr. Brown pointed out, if it is possible to enforce an RCA for the limited entry fleet, it should be the same for open access fleets and would like to see consistency here.

#### D.11. Groundfish Bycatch Program Environmental Impact Statement (11/06/03; 4:16 pm)

##### D.11.a. Agendum Overview

Mr. Jim Seger provided an agendum overview based on the situation summary.

##### D.11.b NMFS Report

Messrs. Jim Glock and Marcus Hartley provided the NMFS Report. In response to a question on additional economic analysis that might be intended, Mr. Hartley responded that there would be revisions to the preliminary draft economic analysis to integrate it into the EIS.

##### D.11.c Reports and Comments of Advisory Bodies

#### **HC**

Mr. Jim Seger read Exhibit D.11.c, Supplemental HC Report.

#### **GAP**

Mr. Phil Kline provided Exhibit D.11.c Supplemental GAP Report.

D.11.d Public Comment

Mr. Phil Kline, Oceana, Washington, DC  
Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California  
Mr. Peter Huttula, Pacific Marine Conservation Council, Astoria, Oregon  
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California

D.11.e **Council Action:** Adopt Groundfish Bycatch Program DEIS for Public Review

Mr. Brown asked Mr. Glock about the point at which the alternative that might be constructed from mixing and matching between alternatives might fall outside the scope of the DEIS and how that would be handled if it occurred. Mr. Glock commented that it was his hope that since they had analyzed the environmental impacts of each tool independently, the Council would have substantial flexibility to combine or modify the tools as the cumulative effect of the changes are within the range that is analyzed.

Mr. Robinson moved and Mr. Anderson seconded a motion (Motion 15) to approve for public review the Draft Groundfish Bycatch Program Environmental Impact Statement; including the 45-day public comment period as soon as the analysis is finished and it is integrated into a DEIS. Mr. Anderson seconded the motion. Motion 15 passed.

D.12 Development of Groundfish Trawl Individual Quotas (IQ) and Control Date (11/06/03; 5:16 pm)

D.12.a Agendum Overview

Mr. Seger provided the agendum overview based on the situation summary.

D.12.b Report of the Ad Hoc Groundfish Trawl IQ Committee

Mr. Seger summarized Exhibit D.12.b, Supplemental TIQC Report and Supplemental TIQC Report 2.

D.12.c Reports and Comments of Advisory Bodies

**GAP**

Mr. Moore provided Exhibit D.12.c, Supplemental GAP Report.

**EC**

Capt. Mike Cenci provided Exhibit D.12.c, Supplemental EC Report.

D.12.d Public Comment

Mr. Rick Harris, Pacific Choice Seafoods, Portland, Oregon  
Mr. Joe Birch, Supreme Alaska Seafoods, Seattle, Washington  
Mr. Michael Deach, longliner, Lopez, Washington  
Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, California  
Mr. Peter Huttula, Pacific Marine Conservation Council, Astoria, Oregon

D.12.e **Council Action:** Provide Guidance on the Next Steps in the Groundfish Trawl IQ Process

Mr. Anderson noted that the IQ committee had set aside the intersector allocation decision in order to focus on the IQ system. He requested that the timeline be augmented to include the steps of the intersector allocation process that would be needed. Mr. Brown noted that the allocation might proceed in different ways depending on the species covered under the program.

Mr. Alverson stated five recommendations for clarification and further discussion by the committee: (1) on page IQ-4 under "Species for Which IQs are Required," as part of the first option respecify the options for whiting from the harvester perspective (IFQ shorebased, IFQ mothership, IFQ catcher-processor); (2) as a third option under this section, add a designation for IFQs processed at-sea and IFQs not processed at-sea (fish dressed and iced at-sea would not be considered processed at-sea and fish frozen at-sea would be considered processed at-sea); (3) extend the control date to IPQs as well as IFQs; (4) request that the allocation committee address the treatment of overfished species within an IFQ program at their March meeting; and (5) add a fifth goal: "Capacity rationalization through market forces."

Mr. Brown moved that under objective 7, the Council use option "b": "Avoid provisions where the primary intent is a change in marketing power balance between harvesting and processing sectors" (Motion 16). The motion was seconded by Mr. Warrens. He opposed Option a, because the use of a market mechanism to achieve allocation was likely to result in some change. He stated that changing the market power should not be the driving force. Dr. Hanson expressed the hope that the intent of the motion was not such that the committee could not continue to work with the language to see if they could find a better way of expressing the intent. Mr. Brown concurred and said that his intent is to avoid provisions for which the real goal, or only purpose, is to affect the balance between the processors and harvesters. Motion 16 passed.

Mr. Brown moved to adopt the committee's report including the control date, options that have been chosen for consideration, and Mr. Alverson's recommendations (Motion 17). The motion was seconded by Mr. Alverson. Motion 17 passed.

With respect to the development of a monitoring and tracking program, Ms. Vojkovich noted that depending on the needs of the system, implementation may take considerably longer than indicated in the timeline. For the state of California, changing a tracking system like landing receipts or swipe cards could take five years and require legislative changes.

Mr. Anderson noted the request from the enforcement consultants to have an offsite meeting with people who have worked on enforcement issues in other IQ programs. Dr. McIsaac included this need as part of his discussion of the effort needed and cost of proceeding with the program.

Dr. McIsaac reported that the first Council request for funding of this effort was to cover direct costs of the ad hoc committee meetings. Reports at this Council meeting are defining the size of the overall task and degree of effort required to move forward. On the basis of reports presented at this meeting, an estimate of effort and costs necessary for the entire process will be developed, available resources will be evaluated, and a comprehensive budget developed. With respect to the costs of the process, Ms. Burke noted the need to take into account agency expenses that would be incurred to support the process and the need to confer with the states on this issue. Mr. Brown encouraged the Council to explore ways in which the Council might take advantage of offers by private interests to help fund the process. Mr. Anderson stated that allocation appeared unavoidable and on that basis requested that something on allocation be built into the cost structure.

## D.13 Final Approval of Exempted Fishing Permits (EFPs) for 2004 (11/07/03; 8:46 am)

### D.13.a Agendum Overview

Mr. Burner reviewed Council action under this agenda item and reviewed the long list of reference materials which included the final 2004 EFP applications for Council consideration.

### D.13.b State EFP Proposals for 2004

#### **Washington**

Ms. Robinson briefly summarized the four EFP applications, including changes to the longline dogfish EFP and mentioned the the cap for yelloweye has been reduced from 1 metric ton to 0.5 metric ton. The rest of the provisions and bycatch caps as presented in September remain the same. Ms. Robinson reviewed the new vessel participation numbers in the application and stated that they may change in response to the vessel buyback program. Dr. McIsaac asked how the EFP will be adjusted for buyback vessels that leave the program. Ms. Robinson said they solicited all of the fishermen for participants and gave them a response deadline to narrow down the amount of participants. There will be a random drawing to choose the final list of participants. If the vessels were bought out, they could still participate in the drawing provided they met the deadlines and criteria.

#### **Oregon**

Mr. Mark Saelens reviewed Exhibit D.13.b, Supplemental ODFW Report 3. One of the items the GMT had asked for which was not available in September was the overall bycatch caps for POP and darkblotched rockfish. Those bycatch caps are 11.8 metric tons for Pacific ocean perch and 15.8 metric tons for darkblotched rockfish. For this EFP, these caps should not be considered in addition to the impacts associated with the trawl fishery as there is not special provision for fishing in areas that are not currently open. This EFP is being tested on a small scale and will only involve three vessels.

Mr. Saelens reviewed the Pacific whiting EFP and noted that estimates of the whiting fishery are based on the tentative modeling of the whiting fishery and will not be finalized until the final whiting OY and management measures are adopted in March.

#### **California**

Ms. Vojkovich said California has an application for continuation of its selective flatfish trawl EFP. One addition to the application since Council review in September is the bycatch cap for lingcod that is a maximum estimate of 20 metric tons based on 6 vessels fishing 12 trips. Additionally, the depth restriction been removed to allow for evaluation of the modified gear on the shelf. The rest of the requirements are the same.

### D.13.c Reports and Comments of Advisory Bodies

#### **GAP**

Mr. Mike Burner read Exhibit D.13.c, Supplemental GAP Report.

D.13.d Public Comment

None.

D.13.e **Council Action:** Approve EFPs for Implementation in 2004

Mr. Anderson moved and Mr. Alverson seconded a motion (Motion 18) to recommend to NMFS approval of the EFP's which have been submitted by WDFW, ODFW, and CDFG. Motion 18 passed.

D.14 Groundfish Fishery Management Plan Amendment 16-3: Rebuilding Plans for Bocaccio, Cowcod, and Widow and Yelloweye Rockfish (11/07/03; 9:08 am)

D.14.a Agendum Overview

Mr. DeVore provided the agendum overview.

D.14.b Reports and Comments of Advisory Bodies

**HC**

Mr. DeVore read Exhibit D.14.b, Supplemental HC Report.

**GAP**

Mr. DeVore read Exhibit D.14.b, Supplemental GAP Report.

D.14.c Public Comment

Mr. Chris Dorsett, Ocean Conservancy, San Francisco, California

D.14.d **Council Action:** Adopt Elements of Amendment 16-3 for Public Review

Mr. DeVore asked the Council to turn to Table 3 in Exhibit D.14, Attachment 1, where the strategic rebuilding parameters and available 2004, 2005, and 2006 OY projections were listed by alternative for each of the four species. He recommended this table be used as a reference when deciding the range of rebuilding alternatives in the Amendment 16-3 EIS. He suggested the Council should consider the range of rebuilding alternatives for each species that should be thoroughly analyzed to understand the biological, habitat and socioeconomic effects. The Council may want to limit the range of alternatives that are so analyzed. Also, it would be helpful for the Council to decide which, if any, of these species rebuilding plans should be analyzed under the mixed stock exception alternative.

Mr. Anderson said the range of alternatives recommended by the GAP made sense to him. This range of alternatives is based on a range of rebuilding probabilities of 50%-90% for bocaccio, widow, and yelloweye, with the addition of a 55% rebuilding probability for cowcod.

Mr. Brown espoused analysis of the mixed stock exception alternative for bocaccio in particular. As they rebuild and move offshore, they are more frequently caught, leading to a bigger bycatch. This, in turn, further constrains fisheries resulting in increased economic harm to fishermen. Mr. Robinson said the mixed stock exception might have some value in the future when stocks are more healthy than what they are now.

At this point in time NMFS does not support invoking the mixed stock exception for overfished stocks at the current levels. Mr. Brown suggested that the mixed stock exception was a legally viable alternative and reasonable to analyze in a NEPA document. Mr. Robinson agreed it was reasonable under NEPA to analyze a mixed stock exception alternative; however, NMFS does not support invoking the mixed stock exception. Therefore, it is not a viable alternative.

Mr. Alverson asked if the rebuilding probabilities depicted in Table 1 in Exhibit D.14, Attachment 1 are the ones the Council chose for the 2004 season? Mr. DeVore said yes, these values are consistent with the 2004 specifications as well as the Council Interim alternative depicted in Table 3.

Mr. Alverson moved (Motion 19) to use the same rebuilding strategy for bocaccio, widow, cowcod, and yelloweye rockfish as shown in Table 1 in Exhibit D.14, Attachment 1. Mr. Cedergreen seconded the motion.

Mr. Brown said Mr. Alverson's motion was to "use" the Council Interim strategy. However, isn't the task today to decide a range of alternatives for analysis? Mr. DeVore said yes. He interpreted the motion to mean the Council Interim alternative should be analyzed. Dr. McIsaac said the Council should be looking at a range of alternatives for analysis and Table 3 in Exhibit D.14, Attachment 1 is where the Council should focus their attention. Mr. Alverson then withdrew the motion, an action which was supported by Mr. Cedergreen.

Mr. Warrens asked, if the mixed stock exception is not analyzed, is it true it couldn't be used in the future? Mr. Robinson said if the mixed stock exception is not analyzed in the NEPA document, it cannot be included in the FMP amendment.

Mr. Anderson moved (Motion 20) that the elements for the Amendment 16-3 NEPA analysis include a range of rebuilding probabilities of 60-90% for bocaccio, widow, yelloweye; and, for cowcod, we include an alternative with a 55% rebuilding probability. Mr. Alverson seconded the motion.

Mr. Brown moved to amend the motion to include a mixed stock exception analysis for bocaccio, widow, and yelloweye. Mr. Warrens seconded the amendment to Motion 20.

Roll call vote on amendment to Motion 20: (Messrs. Robinson, Ortmann, Alverson, Harp, Cedergreen, Anderson, Ticehurst, Thomas, and Mallet voted no). 4 yes, 9 no. Amendment to motion 20 failed.

Ms. Vojkovich asked about the cowcod range of rebuilding alternatives. She understood the Council Interim alternative had a 55% rebuilding alternative and there was an analysis for a 60% rebuilding probability. However, there is no ability to analyze 70%, 80% or 90% rebuilding probability alternatives. She requested clarification on this issue. Mr. DeVore said that Mr. Barnes and other members of the cowcod STAT Team indicated it was physically impossible to analyze these alternatives at this time. He suggested Mr. Tom Barnes could provide relevant details if the Council desired. Mr. Anderson then modified his motion to include only the alternative 55% and 60% cowcod rebuilding probabilities in the NEPA analysis. Motion 20 passed with only Mr. Brown in opposition.

#### D.15 Open Access Limitation Discussion and Planning (11/07/03; 9:35 am)

##### D.15.a Agendum Overview

Mr. Seger presented an overview based on the situation summary.

#### D.15.b Reports and Comments of Advisory Bodies

#### **GAP**

Mr. Seger read Exhibit D.15.b, Supplemental GAP Report.

#### D.15.c Public Comment

Mr. Doug Fricke, troller, Hoquiam, Washington

#### D.15.d Council Discussion and Guidance in Planning Future Open Access Limitation Actions

Ms. Vojkovich expressed concern about continuation of unrestricted participation in the open access fishery and displacement of open access effort onto the shelf with implementation of the state nearshore limited entry system. There are several ways to approach the problem. One would be to move forward with a moratorium permit. About 61% of the open access fishery is in California. In response, Mr. Brown focused his comment on the need to define the directed open access fishery, as discussed in the GAP statement. Ms. Vojkovich concurred with Mr. Brown's comments and suggested reconvening the open access group over the winter to discuss this type of issue. Mr. Robinson stated that it would be premature to discuss a new control date at this point. Dr. McIsaac suggested the Council address this issue under I.4, workload.

### **E. Salmon Management**

#### E.1 Salmon Fishery Update (11/04/03; 2:32 pm)

Vice Chairman Dave Ortmann chaired the salmon management items.

#### E.1.a Salmon Technical Team Report

Mr. Dell Simmons presented Exhibit E.1.a, Supplemental STT Report, Status Report of the 2003 Ocean Salmon Fisheries off Washington, Oregon, and California.

Mr. Brown asked if the high catch per unit effort in the California commercial fishery was accurate. Mr. Larson responded that it was.

Mr. Cedergreen asked if the preseason estimates of Canadian chinook catch were accurate. Mr. Simmons responded that the actual catch in the West Coast Vancouver Island was roughly double the preseason estimates. The Georgia Straight and northern troll fisheries catch were similar to the preseason prediction.

Mr. Gaudet asked if the WCVI Abundance Based Management allocation was exceeded. Mr. Simmons responded no, but they were very close to their allowable catch.

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

None.

#### E.1.c Public Comment

Mr. Duncan MacLean, Humboldt Fisherman's Marketing Association, El Granada, California

E.1.d Council Discussion on Salmon Fishery Update

Mr. Anderson stated that for the fisheries north of Cape Falcon, this was an exceptionally smooth running year.

Mr. Larson stated that the commercial fishing was exceptional in California, especially in the Fort Bragg area, but that the recreational fishery was not very good due to a more northerly and offshore distribution.

E.2 Inseason Consideration of Scheduled 2004 Commercial and Recreational Openings South of Cape Falcon (11/04/03; 2:43 pm)

E.2.a Agendum Overview

Mr. Chuck Tracy presented the agendum overview.

E.2.b Agency and Tribal Reports and Comments

None.

E.2.c Reports and Comments of Advisory Bodies

None.

E.2.d Public Comment

Mr. Duncan MacLean, Humboldt Fisherman's Marketing Association, El Granada, California

E.2.e **Council Action:** Recommend Maintaining or Modifying the March 15, 2004 Opening Date for Commercial and Recreational Fisheries South of Cape Falcon

Mr. Larson requested the STT analyze the effects of an April opening in the Fort Bragg commercial fishery in terms of the trade-off of impacts from other fisheries. Mr. Tracy responded that he would speak with Mr. Simmons about that analysis.

It was consensus to maintain the March 15, 2004 opening date for commercial and recreational fisheries south of Cape Falcon.

E.3 Preseason Planning for 2004 Management (11/04/03; 2:47 pm)

E.3.a Agendum Overview

Mr. Tracy presented the agendum overview.

E.3.b Reports and Comments of Advisory Bodies

None.

E.3.c Public Comment

Mr. Duncan MacLean, Humboldt Fisherman's Marketing Association, El Granada, California

E.3.d **Council Action:** Approve 2004 Hearing Sites and Management Schedule

Mr. Larson recommended that the 2004 California hearing be held in Fort Bragg rather than Eureka.

Mr. Anderson moved (Motion 2) that the Council adopt the public hearing sites and schedule as listed in Exhibit E.3, Situation Summary with the substitution of Fort Bragg for Eureka. The locations will be Westport, Washington and Coos Bay, Oregon on March 29; and Fort Bragg, California on March 30. Mr. Cedergreen seconded the motion. Motion 2 passed.

Mr. Brown indicated that funding uncertainties for the Klamath Fishery Management Council could result in the KFMC not meeting in February as indicated in Exhibit E.3 Attachment 1. However, he stated that the funding for the KFMC could probably be reinstated for FFY 2004 if discussions between the KFMC and Rep. Herger R - Calif.) were satisfactory.

Dr. McIsaac recommended as a followup, in the event funding was not likely to be restored, that the Council send a letter to Rep. Herger describing the role of the KFMC in the Council process and the possible ramifications of not funding the KFMC.

Mr. Larson asked if the Council should investigate the options of promoting the KFMC, versus incorporating those functions into the Council process. Dr. McIsaac responded that the technical functions such as run predictions could be incorporated. The allocation negotiations that occur outside the Council process, similar to the North of Falcon process, would be more difficult.

Mr. Brown identified two issues, a short term funding issue, and a long term functionality issue. Chairman Donald Hansen recommended assigning a Council subgroup to address the long term issue.

The Council agreed by consensus to put together a subgroup of Messrs. Ralph Brown, Neal Coenen, Eric Larsen, and the Council Executive Director to investigate the potential for incorporating KFMC functions into the Council process in light of funding uncertainties for the KFMC.

Mr. Anderson moved (Motion 3) to approve Exhibit E.3, Attachment 1 (staff's overall proposed schedule and process for developing 2004 ocean salmon management measures). Mr. Alverson seconded the motion. Motion 3 passed.

E.4 Salmon Methodology Review (11/04/03; 3:05 pm)

E.4.a Agendum Overview

Mr. Tracy presented the agendum overview.

E.4.b SSC Report

Dr. Robert Conrad presented Exhibit E.4.b, Supplemental SSC Report.

E.4.c Model Evaluation Workgroup Report

Mr. Simmons presented Exhibit E.4.c, Supplemental MEW Report.

E.4.d Reports and Comments of Advisory Bodies

## **STT**

Mr. Simmons presented Exhibit E.4.d, Supplemental STT Report.

### E.4.d Reports and Comments of Advisory Bodies

## **PSC/Tribal**

Mr. Jim Harp presented Exhibit E.4.d, Supplemental Tribal Comment, Statement for Pacific Salmon Commission Coho Model Review.

### E.4.e Public Comment

None.

### E.4.f **Council Action:** Adopt Final Methodology Changes for 2004

Mr. Coenen asked if there was a compatible schedule between the PSC model development and the Council use of the model. Mr. Simmons responded that if the Council waits for the PSC to complete its process in January and February, the Council will be forced to use whatever version of the model is used by the PSC.

Mr. Anderson stated that his staff believes the model needs some additional work before it will be ready to use, but that using the 2003 version is not appropriate due to errors in the fishery strata. The work of modifying the model data sets will be done by the same people working in the PSC arena as work in the Council arena, and he is confident that use of their final product will be in the best interest of both arenas. He recommended using the version of the data sets that comes out of the PSC process for Council fishery planning in 2004, and stated that if that process was satisfactory to the states and tribes, that Council approval in March was unnecessary.

Mr. Anderson recommended the Council accept the advisory body reports and recommendations for continuation with development of a users manual and programmers guide for the Chinook and Coho FRAMs by the MEW.

## **F. Pacific Halibut Management**

### F.1 Status of 2003 Pacific Halibut Fisheries (11/04/03; 5:15 pm)

#### F.1.a NMFS Report

Yvonne de Reynier presented Exhibit F.1.a, NMFS Report..

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

None.

#### F.1.c Public Comment

None.

F.1.d Council Discussion on Status of 2003 Pacific Halibut Fisheries

None.

F.2 Proposed Changes to the Catch Sharing Plan and Annual Regulations (11/04/03; 5:19 pm)

F.2.a Agendum Overview

Mr. Tracy presented the agendum overview.

F.2.b State Proposals

**WDFW**

Mr. Anderson presented Exhibit F.2.b, Supplemental WDFW Report.

**ODFW**

Mr. Don Bodenmiller presented Exhibit F.2.b, Supplemental ODFW Report.

F.2.c Tribal Comments

Mr. Harp presented Exhibit F.2.c, Supplemental Tribal Comments.

F.2.d Reports and Comments of Advisory Bodies

**GAP**

Ms. Janice Green presented Exhibit F.2.d, Supplemental GAP Report.

F.2.e Public Comment

Mr. Rhett Weber, Charterboat Association of Neah Bay, Westport, Washington

F.2.f **Council Action:** Adopt Proposed Regulation Changes to the Halibut Catch Sharing Plan for 2004

Mr. Anderson moved (Motion 4) to adopt the changes to the Area 2A Pacific Halibut Catch Sharing Plan as proposed in Exhibit F.2.b, Supplemental WDFW Report with the following modification:

Subsequent to this closure, if there is insufficient quota remaining to reopen this subarea for another fishing day, then the Washington proportion as set preseason may be transferred inseason to another Washington coastal subarea, and/or the Oregon proportion as set preseason may be transferred inseason to another Oregon subarea by NMFS via an update to the recreational halibut hotline.

Mr. Cedergreen seconded the motion. Motion 4 passed.

Ms. Patty Burke moved (Motion 5) to adopt the changes to the Area 2A Pacific Halibut Catch Sharing Plan as proposed in F.2.b, Supplemental ODFW Report. Mr. Brown seconded the motion. Motion 5 passed.

It was Council consensus to accept the tribal report.

## **G. Highly Migratory Species Management**

### **G.1 NMFS Report on Highly Migratory Species Management (11/05/03; 8:07 am)**

#### **G.1.a Regulatory Matters**

Mr. Fougner read from Exhibit G.1.a, Supplemental NMFS Report.

There were no questions from the Council.

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

None.

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

None.

#### **G.1.d Council Discussion on NMFS Report on Highly Migratory Species Management**

Ms. Vojkovich asked if the proposed rule, developed by NMFS concurrent to the FMP review, would contain provisions similar to the high seas long line alternative that would not allow swordfish style sets that is currently in the FMP (High Seas Long Line Fishery – Alternative 3)? Mr. Fougner responded, yes, the concurrent proposed rule would apply to vessels fishing west of 150° W longitude and not allow high seas long line fishing techniques aimed at targeting swordfish (e.g., shallow set, light sticks, etc.), which is essentially the same as the current Alternative 3.

Ms. Vojkovich asked about how public review of the NMFS proposed rule would occur, notably, in regard to the statement in Mr. Fougner's report about the possibility of restrictions on swordfishing that are less stringent than an outright prohibition? Moreover, how would public input be accounted for in the final rule? Mr. Fougner responded that the concurrent ("companion") regulations would be developed through notice and comment rulemaking, i.e., a proposed rule would be published, public comment would be sought, NMFS would consider public comments, and a final rule would be published that included responses to the public comments.

Dr. McIsaac noted, in regard to the process for deciding jeopardy, the Council requested, but has not received a report on the analytical tools that would be used in the jeopardy analysis. He asked what analytical tools might be used in the NMFS review of the HMS FMP and would the Council have the opportunity to review the information? Mr. Fougner stated the biological opinion used in the 2002 jeopardy analysis of the Hawaiian long line fishery would provide insight about the methods NMFS intends to use, and he would get that information to the Council. He also noted the workshops planned for reviewing jeopardy standards and analytical techniques would also provide information for the Council about how the jeopardy analysis would occur.

### **G.2 Fishery Management Plan (FMP) Amendment Update: High Seas Longline Limited Entry and Other Issues (11/05/03; 8:29 am)**

#### G.2.a Agendum Overview

Mr. Dan Waldeck provided the agendum overview. He reviewed the materials in the briefing book and potential Council action. He also suggested that Mr. Fougner might be asked to speak to the implications of NMFS-related high seas long line activities. Notably, how the NMFS action might affect the Council's consideration of an FMP amendment for limiting entry in the high seas long line fishery.

#### G.2.b NMFS Report

Mr. Fougner reported on G.2-related matters during his report under agenda item G.1. Relative to agenda item G.2, Mr. Fougner reported that, in the future, it might be possible that management approaches will be developed that provide for a swordfish-targeting high seas longline fishery that occurs without jeopardy to sea turtles. This might be possible because of current and future research, modifications to gear and fishing techniques, and other innovations. Currently, however, the ESA-Section 7 consultation has not been completed and, thus, NMFS can not give guidance on how such a fishery might operate.

However, in the short term, there is a high likelihood that the current West Coast longline fishery targeting swordfish could be sharply curtailed. He will keep the Council fully apprized of ongoing activities.

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

##### **HMSMT**

Dr. Dale Squires and Mr. Steve Croke provided Exhibit G.2.c, HMSMT Report.

##### **HMSAS**

Mr. Bob Fletcher provided Exhibit G.2.c, Supplemental HMSAS Report.

#### G.2.d Public Comment

Mr. Doug Fricke, commercial fisherman, Hoquiam, Washington

Ms. Kate Wing, NRDC, San Francisco, California

Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California

#### G.2.e Council Action: Provide Guidance on HMS FMP Amendment Development

Ms. Vojkovich suggested it would be reasonable to request the HMSMT to begin working on an FMP amendment to address limited entry in the high seas longline fishery. She requested the HMSMT use Magnuson-Stevens Act requirements for limited entry programs as guidance. Additionally, she was supportive of using the first four criteria recommended by the HMSAS in their report. She was less certain of the need to include their latter two criteria, i.e., history of a vessel's observer coverage and history of vessel's protected species interactions.

Mr. Fougner said NMFS would provide the HMSMT with observer coverage and protected species interaction information, which could be used as background information. If warranted, these two additional information sources could be included as qualifying criteria

Ms. Vojkovich asked if the HMSMT would be able to provide a progress report at the March 2004 meeting? Dr. Squires responded, yes.

Mr. Brown asked about the need to formally initiate an FMP amendment versus asking the HMSMT to compile information and initiate analysis. What are the workload issues involved with formal initiation of an FMP amendment? Dr. McIsaac asked if the FMP specified a plan amendment cycle?

Mr. Waldeck noted the FMP does not specify an FMP amendment cycle. Thus, the Council was not constrained to a specific meeting cycle and could address the FMP amendment in a way that best fit Council workload. He also noted his sense of the importance of formal initiation of an FMP amendment as a sign to the public that the Council is formally addressing an issue and making it part of active workload.

Dr. McIsaac concurred, formal initiation would be a sign of intent. If the Council did formally start the process, the public would be notified and the FMP amendment would become part of the larger Council workload with related scheduling of council meetings, notices, HMSMT and HMSAS meetings, etc.

Mr. Fougner stated that this FMP amendment could be a pilot project for the NMFS regulatory streamlining process.

Mr. Anderson noted the HMSAS and public recommendation to consider changing the control date. He understands the control date does not set a "hard line," rather it states participation and catch history that occur after the control date "might not" (rather than "would not") be considered in future limited entry programs. Thus, he sees flexibility in use of the current control date. He requested the HMSMT, in their review of the fleet, participation, and catch history, to consider the appropriateness of the current control date and report their findings to the Council.

## H. Coastal Pelagic Species Management

### H.1 NMFS Report (11/05/03; 9:52 am)

#### H.1.a Informational Update

Mr. Fougner reported the revised sardine allocation framework was implemented by NMFS. The northern subarea fishery closed October 17, 2003. The southern subarea fishery was open. Per the revised allocation framework, the harvest guideline remaining on December 1 would be re-allocated coastwide.

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

None.

#### H.1.c Public Comment

None.

#### H.1.d Council Discussion

None.

### H.2 Pacific Sardine Stock Assessment and Harvest Guideline for 2004 (11/05/03; (9:53 am)

#### H.2.a Agendum Overview

Mr. Waldeck provided an overview of the agenda topic and anticipated Council action. He noted for the Council that, in adopting a recommended harvest guideline, setting an incidental allowance would be prudent in case a subarea fishery were to achieve their portion of the sardine harvest guideline, but were still catching sardine incidental to another CPS fishery.

Dr. Ray Conser provided a PowerPoint presentation based on Exhibit H.2, Attachment 1 - Status of the Pacific Sardine Resource and Fishery in 2003 with Management Recommendations for 2004. A copy of this presentation is available for Council staff, upon request.

Relative to the historic record of sardine abundance, Mr. Anderson asked about the level of confidence in the historic record versus the more recent assessments. Dr. Conser responded that the measures of abundance (numbers of fish, geographic area) are similar, but the historic record is only a measure of landed catch whereas the recent abundance estimates are from a more robust set of fishery-dependent and -independent measures and include uncertainty bounds (confidence intervals) around the estimate of abundance.

Dr. Conser also discussed cyclical abundance estimates from the geological record using scales deposited over time. The scale deposition record shows population fluctuations both at interannual and interdecadal levels.

#### H.2.b Reports and Comments of Advisory Bodies (11/05/03; 10:56 am)

##### **CPSMT**

Dr. Sam Herrick provided Exhibit H.2.b, CPSMT Report.

Upon questioning from Dr. McIsaac, Dr. Herrick discussed options for 2004 management if the CPS STAR scheduled for June 2004 showed dramatically different (higher or lower) stock abundance. That is, the results of the STAR are intended for use in developing the 2005 harvest guideline, however, the results of the STAR could compel changes inseason to the 2004 fishery. The likelihood of this occurring is very low, but it would be prudent to provide time on the Council calendar to address issues that might arise following the CPS STAR panel meeting.

Mr. Fougner noted that Dr. McIsaac raised an interesting issue, but that management under the FMP currently does not provide for inseason changes to the harvest guideline amount. Allocations, incidental allowance, and subarea closures are the inseason actions provided for in the CPS FMP.

Relative to greater access to and more fully incorporating Mexican fishery information, Mr. Fougner spoke to recent changes in the Mexican fishery agencies. There are efforts to schedule discussions about cooperative, coordinated arrangements between the U.S. and Mexican officials.

##### **SSC**

Dr. Steve Ralston provided Exhibit H.2.b, Supplemental SSC Report.

##### **CPSAS**

Mr. John Royal provided Exhibit H.2.b, CPSAS Report.

Relative to the CPSAS comment on the lack of response from the Department of State about the Council's request for engagement of cooperative management initiatives between the U.S. and Mexico, Mr. Fougner

indicated he would confer with his colleagues at the Department of State to enquire about the intention to respond to the Council. As he noted previously, efforts have been initiated to engage Mexican fishery managers in discussion about cooperative management.

#### H.2.c Public Comment

Mr. John Royal, San Pedro, California

#### H.2.d Council Action: Adopt Pacific Sardine Harvest Guideline for 2004

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 6) to recommend the 2004 Pacific sardine harvest guideline be 122,747 mt and to recommend incidental catch allowances for Pacific sardine in CPS fisheries up to 45% of landed weight.

Mr. Anderson stated his concern about the need for a means to quickly modify the allocation formula for 2005 in the event the 2005 harvest guideline is below 90% of the 2003 harvest guideline. That is, the revised allocation framework adopted by the Council called for the revised framework to be in place for the 2003 and 2004 fisheries, and the 2005 fishery if the available harvest was at least 90% of the 2003 harvest guideline.

He is concerned that if there is less fish available for harvest in 2005, it would be very difficult to alter the allocation formula in reaction to economic or biological concerns. He requested the CPSMT consider measures for timely adjustments to the allocation formula.

Mr. Waldeck said he would include this in the CPSMT and staff workload.

### **I. Administrative Matters**

#### I.1. Legislative Matters (11/07/03; 10:20 am)

##### I.1.a Agendum Overview

Mr. Waldeck provided an overview and noted the Legislative Committee would provide a verbal report.

##### I.1.b Legislative Committee Report

Dr. David Hanson (Legislative Committee chair) provided a brief report. He noted that no new major legislative initiatives had occurred since the September Council meeting. A House bill to reauthorize the Marine Mammal Protection Act (HB 2693 – Gilchrest) was marked up recently. Additions to the legislation included provisions related to California sea lion/fishery interactions. It is not anticipated that fishery-related legislation will be introduced or acted upon until March or April 2004, when it is expected Senator Ted Stevens will become chair of the Senate Commerce Committee.

Relative to FY 2004 appropriations, the expectation is that the Commerce, Justice, State (CJS) appropriations bill would not be acted on independently by the Senate, rather it was likely the CJS bill would become part of large omnibus appropriations package and be dealt with in conference between the two houses of Congress. Thus, the CJS bill is likely to go forward in its current form. Dr. Hanson also noted that additional increases to Mitchell Act funding for hatcheries had not been addressed prior to the CJS bill going into the omnibus package.

Mr. Alverson asked if the CJS bill was to go into the omnibus package in its current form did that mean that riders on the CJS bill would remain? Dr. Hanson confirmed that this was the case.

I.1.c Reports and Comments of Advisory Bodies

None.

I.1.d Public Comment

None.

I.1.e Council Action: Consider Recommendations of the Legislative Committee

None.

I.2 Fiscal Matters (11/07/03; 10:24 am)

I.2.a Agendum Overview

Dr. John Coon provided the agendum overview.

I.2.b Budget Committee Report

Mr. Harp provided Exhibit I.2.b, Supplemental Budget Committee Report.

I.2.c Reports and Comments of Advisory Bodies

None.

I.2.d Public Comment

None.

I.2.e **Council Action:** Consider Recommendations of the Budget Committee

The Council approved the report of the Budget Committee as shown in Exhibit I.2.b, Supplemental Budget Committee Report. (Motion 21)

I.3 Appointments to Advisory Bodies (11/07/03; 10:30 am)

I.3.a Agendum Overview

Mr. Chuck Tracy presented the agendum overview.

I.3.b Reports and Comments of Advisory Bodies

**HMSMT**

Ms. Michele Robinson presented Exhibit I.3.b, HMSMT Report.

I.3.c Public Comment

None.

I.3.d **Council Action:** Appoint Members to Advisory Bodies

Ms. Vojkovich moved (Motion 22) to appoint the following:

- Mr. Dale Sweetnam, CDFG representative on the Coastal Pelagic Species Management Team;
- Ms. Leeanne Laughlin, CDFG representative on the Coastal Pelagic Species Management Team;
- Mr. Tom Barnes, CDFG representative on the Scientific and Statistical Committee;
- Ms. Deborah Aseltine-Neilson, CDFG representative on the Groundfish Advisory Panel.

Mr. Thomas seconded the motion. Motion 22 passed.

Mr. Robinson moved (Motion 23) to appoint the following:

- Dr. Kevin Hill, NMFS SWFSC representative on the Coastal Pelagic Species Management Team;
- Dr. Suzanne Kohin, NMFS SWFSC representative on the Highly Migratory Species Management Team;
- Dr. Kevin Hill, NMFS SWFSC representative on the Scientific and Statistical Committee.

Ms. Vojkovich seconded the motion. Motion 23 passed.

Mr. Robinson indicated that in regards to the HMSMT statement (Exhibit I.3.b, HMSMT Report), the NMFS SWR will continue to provide support to the HMSMT, but is not requesting a formal seat on that advisory body.

Mr. Anderson moved (Motion 24) to appoint the following people to the At-Large positions on the Scientific and Statistical Committee:

- Dr. Ramon Conser;
- Dr. Michael Dalton;
- Dr. Hans Radtke;
- Dr. Andre' Punt;
- Dr. Stephen Ralston;
- Mr. Steve Berkeley.

Mr. Cedergreen seconded the motion. Motion 24 passed.

Mr. Coenen moved (Motion 25) to appoint the following people to the Coastal Pelagic Species Advisory Subpanel:

- Mr. Orlando Amoroso, California Commercial Fisheries representative;
- Ms. Terry Hoinsky, California Commercial Fisheries representative;
- Mr. John Royal, California Commercial Fisheries representative;
- Mr. Eugene Law, Oregon Commercial Fisheries representative;
- Mr. Robert Zuanich, Washington Commercial Fisheries representative;
- Mr. A. Pierre Marchand, Washington Processor representative;
- Ms. Heather Munro Mann, Oregon Processor representative;
- Ms. Diane Pleschner-Steele, California Processor representative;
- CPT Paul Strasser, California Charter/Sport Fisheries representative;
- Ms. Karen Renya, Conservation Group representative.

Mr. Anderson seconded the motion. Motion 25 passed.

Mr. Anderson moved (Motion 26) to appoint the following people to the Groundfish Advisory Panel:

- Mr. John Crowley, Fixed Gear Fisheries representative;
- Mr. Tom Ghio, Fixed Gear Fisheries representative;

Mr. Gerry Richter, Fixed Gear Fisheries representative;  
Mr. Kenyon Hensel, Open Access Fisheries North of Cape Mendocino representative;  
Ms. Kathy Fosmark, Open Access Fisheries South of Cape Mendocino representative;  
Mr. Barry Cohen, Processor representative;  
Mr. Rod Moore, Processor representative;  
Mr. Dale Meyer, At-Sea Processor representative;  
Mr. Rhett Weber, Washington Charter Boat Operator representative;  
Mr. Wayne Butler, Oregon Charter Boat Operator representative;  
Mr. Bob Ingles, California Charter Boat Operator North of Point Conception representative;  
Mr. Daniel Strunk, California Charter Boat Operator South of Point Conception representative;  
Mr. Randy Fry, Sport Fisheries representative;  
Ms. Janice Green, Sport Fisheries representative;  
Mr. Jim Lone, Sport Fisheries representative;  
Mr. Gordon Smith, Tribal Fisher representative;  
Mr. Phil Kline, Conservation Group representative.

For the Washington, Oregon, and California Trawl representatives, extend the terms of the incumbents through the March 2004 Council meeting, solicit new nominations in the interim and make new appointments at the March 2004 Council meeting. Mr. Alverson seconded the motion. Motion 26 passed.

Ms. Vojkovich moved (Motion 27) to appoint the following people to the Highly Migratory Species Advisory Subpanel:

Mr. Wayne Hiekkila, Commercial Troll Fisheries representative;  
Mr. August Felando, Commercial Purse Sein Fisheries representative;  
Mr. Pete Dupuy Commercial Fisheries At-Large representative;  
Mr. Bill Sutton, Commercial Fisheries At-Large representative;  
Mr. Doug Fricke, Commercial Fisheries At-Large representative;  
Mr. Angelo Augello, Processor South of Cape Mendocino representative;  
Mr. Robert Fletcher, Charter Boat Operator representative;  
Mr. Bob Osborne, Private Sport Fisheries representative;  
Dr. Russell Nelson, Sport Fisheries At-Large representative;  
Ms. Kate Wing, Conservation Group representative;  
Ms. Tana McHale, Public At-Large representative.

For the Commercial Gillnet representative, solicit new nominations in the interim and make an appointment at the March 2004 Council meeting. Mr. Thomas seconded the motion. Motion 27 passed.

Mr. Coenen moved (Motion 28) to appoint the following people to the Salmon Advisory Subpanel:

Mr. Jim Olson, Washington Troll Fisheries representative;  
Mr. Don Stevens, Oregon Troll Fisheries representative;  
Mr. Duncan MacLean, California Troll Fisheries representative;  
Mr. Kent Martin, Gillnet Fisheries representative;  
Mr. Gerry Reinholdt, Processor representative;  
Mr. Butch Smith, Washington Charter Boat Operator representative;  
Mr. Ron Lethin, Oregon Charter Boat Operator representative;  
Mr. Craig Stone, California Charter Boat Operator representative;  
Mr. Steve Watrous, Washington Sport Fisheries representative;  
Mr. Jim Welter, Oregon Sport Fisheries representative;  
Mr. Tom Welsh, Idaho Sport Fisheries representative;  
Mr. Bob Strickland, California Sport Fisheries representative;  
Mr. Calvin Frank, Washington Coastal Tribal Fisher representative;  
Mr. Mike Orcutt, California Tribal representative;

Mr. Jim Tuggle, Conservation Group representative.  
Mr. Alverson seconded the motion. Motion 28 passed.

Mr. Anderson moved (Motion 29) to add a seat to represent the National Marine Sanctuaries on the Habitat Committee. Mr. Mallet seconded the motion. Motion 29 passed.

Mr. Anderson moved (Motion 30) to appoint the following people to the Habitat Committee:

- Mr. Paul Heikkila, Commercial Fisheries representative;
- Ms. Liz Hamilton, Sport Fisheries representative;
- Mr. Dave Hillemeier, California Tribal representative;
- Mr. Stuart Ellis, Washington Coast/Columbia River Tribal representative;
- Mr. Michael Osmond, Conservation Group representative;
- Mr. Sean White, Public At-Large representative.

For the National Marine Sanctuary representative, solicit new nominations in the interim and make an appointment at the March 2004 Council meeting. Mr. Mallet seconded the motion. Motion 30 passed.

#### I.4. Staff Work Load Priorities and Draft March 2004 Council Meeting Agenda (11/07/03; 10:48 am)

##### I.4.a Agendum Overview

Dr. McIsaac

##### I.4.b Reports and Comments of Advisory Bodies

None.

##### I.4.c Public Comment

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

##### I.4.d Council Guidance on Workload, Draft Agenda for the March 2004 Council Meeting, and Priorities for Advisory Body Consideration

Mr. Coenen requested the OCN coho matrix as an FMP amendment be moved up above the delayed line as ODFW will be working on it and hope to have the preliminary work done by November 2004 and a final amendment for adoption by 2005. The concern is that even though the Council has adopted A-13, until the coho matrix is formally adopted, the defensibility of the matrix as a rebuilding plan would be subject to litigation; that component needs to be completed.

Dr. Coon said it seems like it would be difficult even for Oregon to do much work between now and the April meeting. Perhaps after April it could be moved above the line to active. Mr. Coenen agreed.

Mr. Anderson suggested we get a report, either as an agenda item or informational item, on the winter GMT meeting. Mr. Anderson said he was concerned about the adequacy of our 2004 management measures in terms of staying within the harvest levels. He would like to see a discussion about how the states and NMFS are prepared to take inseason actions as needed to keep us within the harvest levels.

Dr. Hanson said he noticed the trawl IQ committee is put on the March meeting; he asked if the committee could decide whether it should be an agenda item or in the informational tab (at least for the March and April meeting).

Ms. Vojkovich asked about a presentation on the anticipated bycatch report that is supposed to be coming out in January. Dr. McIsaac said the observer data report comes out the end of January, the model work group puts it together, it goes to the SSC in March, then to Council in April.

Ms. Vojkovich said she would like to see the open access limitation issue moved up (conference call in January rather than a whole committee) and have it on the March agenda.

Mr. Anderson asked for some priorities for the GMT for the March meeting (marked on supplemental).

Ms. Vojkovich addressed the question of the HMS issues for either the March or April Council meetings, and noted Monday was open for the March meeting. If we have it on the agenda in March, does that mean the people on those teams need to be present?

Dr. McIsaac said it could be an option for the teams to meet prior (with a report in the briefing book) or at the meeting. Depending on meeting rooms. Dr. Coon noted that moving agenda items into Monday restricts the time available for advisory bodies to work and also creates significant staff conflicts.

Mr. Fougner said that by March, NOAA Fisheries will be able to give an account for the HMS FMP actions. That would allow for the HMSAS to address some of those issues (probably about 45 minutes to 1 hour without advisory groups, leading to a clear sense of direction for April to the team/panel).

Dr. McIsaac and Council members held a discussion regarding SSC priorities.

#### **4 P.M. PUBLIC COMMENT PERIOD** (11/04/03; 4 pm)

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

Mr. Tommy Ghio. Talked about STAR Panel process. Would like one canary per recreational angler in the State of Oregon to allow the port samplers to get age/length for further use in assessments.

Mr. Gary Richter. Spoke about the fact he has to have VMS and will be stuck paying for it and other things such as electronic logbooks.

Mr. Rod Moore provided a statement of the GAP, 4 p.m. Public Comment, Supplemental GAP Report. The statement concerned the expected reduction in the trawl fleet effort due to the actual implementation of the buyback program and the need to cumulative trip limits in January and February. While the issue was not on the Council agenda and direct action could not be taken, the GAP suggested the following as possible actions: 1) the Council reconsider its motion for 2004 limits; 2) the Council convene a special meeting; or 3) NMFS establish appropriate cumulative limits as part of its emergency rule to institute the January-February portion of the 2004 groundfish season.

The Council discussed the GAP recommendations and agreed that #3 was the most viable option.

Mr. Kenyon Hensel, Crescent City, California. Talked about how he proposed management being broken down in areas in smaller blocks - he feels it is a necessity. It would be better managed if it was managed state by state, area by area, and possibly port by port.

Mr. Bob Ingles, concerned about sport fishing for next year. Main concern - not to be closed down for next year and we were assured it would not happen with the proposals as set forth at the September meeting. If

we knew this was going to happen we would have opted for a more restrictive season at least for central California. Possibly have a July season start?

Mr. Darby Neil stated the canary OY is higher next year in the state of California. Talked about recreational catch estimates for canary being higher.

Mr. Travis Hunter talked about the whiting fishery and said they would be willing to have 100% observer coverage whether they were in or outside of 100 fms.

Mr. Marion Larkin, trawler, supported the GAP statement on 2004 management measures as they relate to buyback.

Mr. Barry Cohen and Mr. Kelly Smotherman said we have all dropped the ball on continuing the buyback program through its conclusion. The fishermen in the buyback understanding need to have the additional fish in January and February. It is the best time of year to be selling fish as it will be coming upon the "lent" season. This was a good time of year to fish "clean" with least amount of bycatch.

Mr. Bill James, spoke in support of the GAP statement.

Messrs. Brad Pettinger, Tommy Ancona, Steve Bodnar, and Pete Leipzig all came up to show support for buyback program and it's intentions.

ADJOURN



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**Council Chairman**

**April 5, 2004**

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**Date**