

MINUTES
226th Session of the
Pacific Fishery Management Council
An Emergency Meeting Held by Conference Call and Webinar
October 17, 2014
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101; Portland, Oregon 97220

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A. Call to Order (October 17, 2014)

A.1 Opening Remarks

Ms. Dorothy Lowman, Council Chair, called the emergency meeting (via conference call and webinar) of the Pacific Fishery Management Council (Council) to order at 2:00 p.m. on Friday, October 17, 2014. She explained that this emergency meeting has been called to deal with the consideration of inseason adjustments for the groundfish trawl fisheries prior to the regularly scheduled November Council meeting.

A.2 Roll Call

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

Mr. Phil Anderson (State of Washington Official)

Mr. William L. “Buzz” Brizendine (At-Large)
LCDR Gregg Casad (U.S. Coast Guard, non-voting designee)
Mr. David Crabbe (California Obligatory)
Mr. Jeff Feldner (At-Large)
Ms. Dorothy Lowman, Chair (Oregon Obligatory)
Mr. David Ortmann (State of Idaho Official, designee)
Mr. David Sones (Tribal Obligatory)
Ms. Gway Kirchner (State of Oregon Official, designee)
Mr. Frank Lockhart (National Marine Fisheries Service (NMFS), West Coast Region, designee)
Ms. Joanna Grebel (State of California Official, designee).

The following people were absent from the meeting:

Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)
Mr. Rich Lincoln (Washington Obligatory)
Mr. Dale Myer (At-Large)
Mr. Herb Pollard, Vice Chair (Idaho Obligatory)
Dr. Steven Haeseker (U.S. Fish and Wildlife Service, non-voting designee)
Ms. Stefanie Moreland (State of Alaska Official, non-voting designee)
Mr. Dan Wolford (At-Large)
Mr. Dave Hogan (U.S. State Department, non-voting designee).

A.3 Executive Director’s Report

Dr. McIsaac explained the logistics and necessary procedures for participating in the conference call and expressed appreciation to Council members for agreeing to and preparing for this emergency meeting. This will be considered a formal Council meeting and will be recorded and minutes prepared just like any regular Council meeting. The order of moving through the agenda and taking agency, advisor, and public comments will also be the same as a regular Council meeting.

A.4 Agenda

A.4.a Council Action: Approve Agenda

Ms. Lowman referred the Council to the meeting agenda. Mr. Anderson moved and Mr. Feldner seconded **Motion 1** to approve the agenda as presented in Agenda Item A.4, Emergency Meeting Agenda (October 2014).

B. Groundfish Management

B.1 Consideration of Inseason Adjustments for Groundfish Trawl Sectors (10/17/2014; 2:16 p.m.)

B.1.a Agenda Item Overview

Ms. Kelly Ames presented the Agenda Item Overview (Agenda Item B.1) and introduced the following documents:

- Agenda Item B.1.a, Attachment 1: Fact Sheet - Information on the Status of the Trawl Fishery;
- Agenda Item B.1.a, Attachment 2: Request from Midwater Trawlers Cooperative and United Catcher Boats Regarding Darkblotched Rockfish;
- Agenda Item B.1.a, Attachment 3: The Groundfish Management Team Scorecard from September 2014;
- Agenda Item B.1.a, Attachment 4: Letter from Member Companies of the Pacific Cooperative Regarding Darkblotched Rockfish; and
- Agenda Item B.1.a, Attachment 5: Allocation Framework Provided in the Groundfish Management Plan.

B.1.b National Marine Fisheries Service Report

Mr. Frank Lockhart provided some additional clarification on what can be done with regard to inseason actions. First, the contemplated inseason action needs to have been previously analyzed. In this case it would have been analyzed in the current 2013-2014 specifications process. Also, any inseason action should be based on information that actually occurs during the season. He provided further information on the rulemaking process and timing to implement an inseason action as well as automatic actions that require only notice and can occur very quickly.

B.1.c Reports and Comments of State and Tribal Management Entities (10/17/2014; 2:42 p.m.)

Ms. Grebel asked for information concerning the need to consider inseason action now rather than waiting for the November Council Meeting.

Ms. Lowman responded that the whiting fishery (mothership sector) has voluntarily shut down. If they do not have any remaining allocation of darkblotched rockfish their season will be closed. There is the possibility of an automatic inseason transfer of unused darkblotched allocation to allow the whiting fishery to proceed. However, if we wait for the November meeting to take action and there are any other adjustments, it would be at least another two weeks after that before the action could be implemented. This timing issue precipitated a request for an emergency meeting which she has responded to.

Mr. Anderson supplied further details concerning the importance of avoiding unnecessary delay in responding to this situation. He noted that the whiting fishery is labor intensive with a high volume of product in all three sectors. The mothership operations have large crews on their boats in the processing lines. They voluntarily shut down last weekend and can only keep their crews on board for a short period of time in the absence of fish to process. Once they let those crews go,

getting them back and getting the operation up and running again is very difficult, if not impossible in some cases. Given the fact that there was about \$10M worth of raw whiting product still in the water remaining in the mothership allocation, he (and others) asked the Council Chair to consider calling an emergency meeting to contemplate inseason action to allow that product to be harvested and to derive the economic benefit to the Nation rather than to lose it.

B.1.d Public Comment

Mr. Ralph Brown, trawl fisherman, Brookings, Oregon.

Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon, presented Agenda Item B.1.d, Public Comment Letter.

Ms. Heather Mann, Midwater Trawlers Cooperative, Newport, Oregon.

Mr. Brent Paine, United Catcher Boats, Seattle, Washington.

Mr. Greg Shaughnessy, Ocean Gold, Westport, Washington.

B.1.e Council Action: Adopt Recommendations for Adjustments to 2014 Groundfish Trawl Fisheries (10/17/2014; 3:13 p.m.)

Mr. Anderson stated that we should be mindful of two problems in considering any inseason action. The darkblotched problem became obvious last weekend and we also have a Chinook salmon bycatch issue that is going to trigger re-consultation by NMFS as well as an automatic action within the FMP to implement the Ocean Salmon Conservation Zone. We need to be careful in addressing the darkblotched problem that we don't exacerbate the salmon issue. He also noted that from what he now knows about the limits on the Regional Administrator for taking automatic inseason actions, waiting until the November Council meeting would not have allowed us to consider a possible solution to this problem. There have been comments implying any action could be precedent setting. However, there is also a recognition in our management and rules about trying to maintain the appropriate flexibility to adjust to changing circumstances to allow us to meet our conservation objectives while at the same time being able to provide utilization of the resource. That utilization is important. He agreed with Mr. Brown regarding the need to limit ourselves to doing only what is absolutely necessary in using emergency inseason meetings and actions.

Mr. Anderson moved and Mr. Feldner seconded **Motion 2** that the Council recommend the National Marine Fisheries Service take the following actions to be in place for the remainder of the 2014 fishing year:

1. Through an automatic action, implement the Ocean Salmon Conservation Zone in the Pacific whiting fishery;
2. Through an automatic action, reapportion darkblotched rockfish between the at-sea whiting sectors; specifically, transfer 3 mt of darkblotched rockfish from the catcher-processor whiting sector to the mothership sector;
3. Through an automatic action, reapportion the unused portion of the tribal allocation of Pacific whiting to the IFQ, mothership, and catcher-processor Pacific whiting fisheries, to be distributed pro-rata among these sectors, provided the following actions are taken at the time of reapportionment:

- a. For the mothership and catcher-processor sectors, NMFS would continue to work with them to ensure measures are taken through their respective co-ops to fish seaward of 150 fms to minimize salmon bycatch; and
 - b. For the shoreside whiting fishery, distribution would be implemented upon attainment or projected attainment of their original whiting allocation.
4. Through inseason action, concurrent with the reapportionment of whiting to the shoreside sector, implement a Pacific whiting bycatch reduction area to prohibit fishing shoreward of a boundary line approximating the 150-fm depth contour for all whiting sectors (shoreside and at-sea) to minimize salmon bycatch; and
5. Through inseason action, reduce the set-aside of darkblotched rockfish to the incidental open access sector by 3 mt, and transfer those 3 mt of darkblotched rockfish to the catcher-processor whiting sector.

Mr. Anderson stated that we know the Ocean Salmon Conservation Zone will be implemented to protect salmon and it includes the area shoreward of a line that approximates the 100 fm curve (#1 in the motion). Under #2, reapportionment (of darkblotched rockfish) between the two at-sea sectors is an automatic action that can occur in a matter of hours rather than weeks (e.g., a rulemaking process) and addresses the need to keep the crews on the motherships and available to continue working. Number 3 uses an automatic action to direct any unused portion of the tribal whiting allocation to the non-tribal whiting fishery to allow some additional fishing. Because this additional fishing could result in additional salmon bycatch, it is premised on two additional actions. First would be the immediate cooperation of the at-sea sectors to fish seaward of 150 fm (prior to any regulation). With regard to the shoreside sector, it would be restricted to seaward of the 100 fm line until the completion of the original allocation. Upon reapportionment of whiting to the shoreside sector, the 150 fm line would go into effect for all whiting sectors to assure reduction of salmon catches. This would be an inseason action requiring rulemaking that could take a few weeks. Lastly, through an inseason action, the motion would move 3 mt from the incidental open access sector to the catcher-processor sector to bring them back to the allocation they had when the automatic action was taken in #2. He did consider higher quantities than the 3 mt and there was testimony supporting that. However, since this is an emergency action and meeting, he was reluctant to go any further than to address the immediate situation at hand.

Staff and Council members requested clarification on which vessels were restricted by the closed areas, especially regarding the Pacific whiting bycatch reduction area (inside the 150 fm contour). There was concern that midwater trawl vessels targeting species other than whiting would be restricted by the whiting bycatch reduction area closure.

Mr. Anderson replied that he understood Mr. Lockhart's earlier response as to whether all midwater fishing was affected by the salmon conservation zone was a "yes." Mr. Anderson stated that his intent for the 150 fm whiting bycatch reduction contour was that it only apply to the targeted whiting fishery (not all midwater gear).

Mr. Lockhart confirmed his understanding that the Ocean Salmon Conservation Zone (inside 100 fm) is for vessels targeting whiting. However, the existing bycatch reduction area regulation affects all vessels using midwater gear.

Mr. Lockhart provided some comments on the motion. He stated that this is not just a darkblotched issue. The darkblotched issue provided the urgency for this discussion, but the salmon bycatch issue is very important and the motion contains several things that address that. He highlighted that the ESA consultation on this fishery has been initiated and NMFS will be watching the performance of this fishery very closely the remainder of the year as well as analyzing the performance before this time. The re-initiation of the consultation doesn't presuppose a final outcome. We could look at whether the 11,000 trigger is still adequate and whether we need to institute other inseason actions to implement further changes.

Ms. Kirchner noted her concerns regarding #3.b and #4 in the motion. She noted that there are fishermen in the shoreside whiting sector that have attained their allocation and this motion would not allow them to get the benefit of the reallocation, potentially for the whole year. She understands the reason for the 150 fm line. However, it will essentially close the shoreside fishery as it makes it difficult, if not impossible to fish and land shoreside without resulting in a much degraded product.

Mr. Lockhart disagreed somewhat with Ms. Kirchner's conclusion. He noted that there would still be several weeks of fishing with only the 100 fm salmon conservation zone line in effect. The 150 fm restriction would not be implemented until attainment of the current shoreside allocation and the redistribution of the tribal apportionment to the whiting shoreside fishery.

Ms. Kirchner responded that there are shoreside vessels that have already attained or are close to attaining their whiting allocation. The only vessels that will benefit from the reapportionment distribution are those that have still have considerable allocation remaining.

Mr. Anderson understood Ms. Kirchner's concern. However, he noted that the 100 fm closure will be implemented to protect salmon even if the motion is not approved. The 150 fm closure does not take effect until after the shoreside fishery has taken its original allocation. It is a management response intended to ensure that salmon impacts are not increased by increasing the shoreside allocation. He is aware that some fishermen have attained their quota shares and some have not. However, if more fish are allocated to the shoreside sector it still leaves the dilemma to minimize the salmon bycatch.

Ms. Grebel appreciated the constraints in the motion and the proposal for a minimum level of reapportionment of the darkblotched allocation. Her highest concern is with the salmon bycatch and the fact that we have exceeded the 11,000 fish trigger. Consequently, she has a lot of discomfort with moving more fish, more darkblotched, to the whiting fishery when we do not fully have a grasp on the salmon issue. She does not have enough information to know how this might affect future salmon modeling and whether or not these impacts are even accounted for in the pre-season salmon modeling. She suggested that NMFS could reallocate darkblotched rockfish between the two at-sea sectors immediately through an automatic action to keep those fisheries

open. However, it would be better to wait to take further action regarding the salmon issue at the November Council meeting when we have more information to inform our actions.

Mr. Anderson appreciated Ms. Grebel's concerns and noted that they are shared by others, including himself. He noted that the 11,000 salmon was not a quota but rather a harvest guideline that triggers additional actions. Those additional actions include implementation of the salmon conservation zone and re-consultation which also allows us to look at our current management measures relative to chinook bycatch and to decide if we need to do anything different in the next year. We have looked at the scatter plots of where the salmon bycatch has occurred by latitude and by depth. The heaviest hits were inside 100 fm in the vicinity of 47° N. latitude. The mothership and catcher-processor fleets have a real time bycatch monitoring information sharing system that allows them to react quickly if they are in an area that has bycatch species such as salmon.

Ms. Kirchner asked if the bycatch reduction areas were analyzed just for whiting fisheries or for mid-water yellowtail and widow fisheries as well.

Ms. Ames replied that to best of her recollection the bycatch reduction areas were analyzed in the 2009-2010 EIS. She believes we analyzed them for the Pacific whiting fishery because at that time widow rockfish was overfished and we did not have a directed widow rockfish/yellowtail fishery in operation.

Ms. Kirchner stated that she was very comfortable with what is written in #4 in that it applies to all whiting sectors and less comfortable with Mr. Lockhart's interpretation that it applies to all midwater trawl gears, especially as the name is Pacific whiting bycatch reduction area. We will have fisherman using midwater gear targeting yellowtail in November and December, and they are not the folks that are intended to be impacted by this. The intended impact is to reduce bycatch in the Pacific whiting fishery. She didn't think that applying this measure to the non-whiting trawl fishery was appropriate or possible, as it hasn't been evaluated.

Dr. McIsaac noted that Mr. Anderson's clarification of #4 was that it would not apply to the non-whiting midwater fishermen, while Mr. Lockhart's interpretation was that it would. How do we clear this up to meet the intent of the Council?

Mr. Lockhart stated that if the Council was clear that the intent of #4 in the motion was as stated by Mr. Anderson and supported by Ms. Kirchner [the Pacific whiting bycatch reduction area closure should only pertain to the whiting fishery, not all midwater gear], NMFS would look at this and take appropriate action, including, if appropriate, implementing the Council's intent. However, current regulations require that vessels fishing for yellowtail with midwater gear north of 40° 10' N. latitude must declare themselves as whiting vessels.

Mr. Anderson commented that he is aware of two boats in the last three weeks that are fishing inside 100 fm with midwater gear for yellowtail off Leadbetter Point.

Mr. Crabbe referenced public testimony concerning setting the precedent of having an emergency Council meeting. It does have an impact on his position on the motion, based on the need for a

clear understanding of what is the threshold that would allow for this type of meeting. He asked for clarification on the criteria that would call for this type of meeting.

Ms. Lowman responded that this request came and was primarily based on information that the mothership sector would be unable to continue fishing if they had to wait for a decision in November. It would not be possible to hold on to their crews, and there would be a large economic impact. The Council Statement of Organization, Practices, and Procedures (SOPP) doesn't specify precisely what constitutes the need for an emergency meeting.

Dr. McIsaac affirmed Ms. Lowman's statement with regard to the SOPP. He noted that the SOPP and Magnuson-Stevens Act do allow for emergency meetings, but do not specify the exact criteria to allow such. The discretion is left with the Chair, Vice-Chair, and Executive Director. There was some discussion with NMFS which confirmed their ability to address this issue between Council meetings. They have authority to deal with conservation necessities, but could not address purely economic problems.

Mr. Anderson noted Mr. Crabbe's point and added that the emergency determination is certainly qualitative. He recalled a previous emergency meeting in June 1991 for a salmon issue in the Kamath Management Zone. In the current situation, we looked at the amount of fish that were being left in the water and the disparity between the ACL of darkblotched rockfish and the total landings. We tried unsuccessfully to find a way to do this without the emergency meeting and consequently moved forward in that direction given the number of people impacted, the potential financial consequences, the fact that we could fix this without causing harm to anyone else with minimal impacts to other fisheries, and to do so without coming close to a conservation concern.

Ms. Grebel stated that she was still somewhat confused as to the emergency status of this situation and the late arrival of new information to consider. Her understanding was that while the transfer of quota between the mothership and catcher-processor sectors hasn't yet occurred, it is pending. This transfer should take the pressure off of the emergency action as it allows for the crew to stay on the boats and remain fishing. It would seem much more appropriate to consider the rest of the actions at the November Council meeting when we have an opportunity for more analysis and review of the information and impacts.

Mr. Lockhart responded that there are a lot of things that need to happen simultaneously to complete this action in a timely manner. This meeting was an important consideration to provide information for NMFS to be able to move forward with anything that we might be requested to do.

Mr. Anderson commented that he is not confident that the transfer is pending absent action consistent with the motion before you. He had no reason to believe that the catcher-processor sector which provided the letter to Mr. Turner earlier today will stand absent the action we are contemplating. He does not assume that the transfer would occur without Council approval of this motion. This action has several parts. If any part is pulled out, the motion's objectives will not be accomplished.

Ms. Grebel moved Amendment 1 to remove #5 from the motion. The amendment failed due to lack of a second.

Motion 2 carried by a roll call, 5 yes and 3 no (Mr. Brizendine, Mr. Sones, and Ms. Grebel voted no; Mr. Feldner was absent for the vote. **Note:** Mr. Feldner later reported that he voted yes on this motion which would have made 6 yes. However, his voice connection to the meeting was apparently lost at the time of the vote and for the rest of the meeting).

Mr. Lockhart stated that NMFS would follow up with the automatic actions which would take a matter of hours and also the inseason actions. The actions would be initiated by a transmittal letter from the Council describing the recommended actions. It is NMFS' intention to analyze the actions as quickly as possible, taking into account the emergency nature of the Council meeting.

ADJOURN

The Council adjourned on October 17, 2014 at 4:12 p.m.



March 12, 2015

Dorothy Lowman
Council Chair

Date