

**MINUTES**  
**208th Session of the**  
**Pacific Fishery Management Council**  
**April 9-13, 2011**

San Mateo Marriott Hotel  
1770 South Amphlett Boulevard, San Mateo, California 94402

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## **A. Call to Order (April 9, 2011)**

### **A.1 Opening Remarks**

Chairman Mark Cedergreen called the 208<sup>th</sup> plenary session of the Pacific Fishery Management Council to order at 9:23 a.m., Saturday, April 9, 2011. There was a closed session held from 8 to 9 a.m. to discuss litigation and personnel matters.

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

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

Mr. William L. "Buzz" Brizendine (At-Large)  
Mr. Mark Cedergreen, Chairman (Washington Obligatory)  
Mr. David Crabbe (California Obligatory)  
Ms. Michele Culver (Washington State Official, designee)  
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)  
Mr. Frank Lockhart (National Marine Fisheries Service (NMFS), Northwest Region (NWR), designee)  
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At-Large)  
Mr. Dave Ortmann (Idaho State Official, designee)  
Mr. Herb Pollard, (Idaho Obligatory)  
Mr. David Sones (Tribal Obligatory)  
Mr. Gordon Williams (Alaska State Official, non-voting designee)  
Mr. Steve Williams (Oregon State Official, designee)  
Mr. Dan Wolford, Vice Chair (At-Large)  
Ms. Marci Yaremko (California State Official, designee)

Some Federal absences at the time of roll call were due to the government budgetary issues which affected Federal travel. During the week the following people were present in their designated seats for portions of the meeting: Ms. Gway Kirchner, Oregon State Official, designee; Mr. Phil Anderson, Washington State Official; Mr. Pat Pattillo, Washington State Official, designee; Mr. Mark Helvey, NMFS, Southwest Region (SWR), non-voting designee; Mr. Jerry Mallet, State of Idaho Official, designee; Mr. Brian Chambers, US Coast Guard, non-voting designee; Mr. Brian Corrigan, U.S. Coast Guard, non-voting designee; Ms. Marija Vojkovich, State of California Official, designee; Mr. Tim Roth; U.S. Fish and Wildlife Service, non-voting designee.

The following Council member was absent for the entire meeting (non-budgetary reasons): Mr. David Hogan, U.S. State Department, non-voting.

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

Dr. McIsaac reported that the meeting was being streamed over the internet and that with the expected resolution of the Federal budget problems in the near future, the Council's Budget Committee would meet in June. He briefly noted the six information reports provided in the briefing book:

- [Informational Report 1](#): Letter to Chairpersons Duenas, Olson, and Cedergreen RE: Outcomes of the 7th Regular Session of the WCPFC From December 6-10, 2010.
- [Supplemental Informational Report 2](#): Council Coordination Committee DRAFT May 3-5, 2011 Meeting Agenda.
- [Supplemental Informational Report 3](#): USFWS Salmon Mass Marking Rates.
- [Supplemental Informational Report 4](#): Active West Coast Hydrokinetic Projects, Updated March 22, 2011.
- [Supplemental Informational Report 5](#): Letter from RADM Blore to Chairman Cedergreen Regarding USCG Annual Report and RADM Blore's Retirement.
- [Supplemental Informational Report 6](#): *Federal Register* Notice, April 12, 2011, NMFS Announces a 90-Day Finding for a Petition to List the Chinook Salmon in the Upper Klamath and Trinity Rivers as Threatened or Endangered and Designate Critical Habitat Under the ESA.

### **A.4 Agenda**

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

Dr. McIsaac noted that since there was no Legislative Committee meeting, Agenda Item E.2, Legislative Matters, should be canceled. In response to questions, Dr. McIsaac noted that it would be possible to have a closed session later in the week to deal with personnel issues regarding an ad hoc committee to help complete implementation of trawl rationalization trailing actions.

Mr. Rod Moore moved and Mr. Steve Williams seconded a motion (Motion 1) to have a closed session after Agenda Item I.7, cancel the legislative session on Monday, and approve the agenda as amended.

## **B. Open Comment Period**

### **B.1 Comments on Non-Agenda Items (04/09/11; 9:38 a.m.)**

#### **B.1.a Advisory Body and Management Entity Comments**

None.

#### **B.1.b Public Comment**

Mr. Steve Rienecke, Nature Conservancy, Morro Bay, CA. Reported on their 2010 EFP permit project and indicated a final report will be submitted for the June meeting.

Mr. E.B. Duggan, Trinity River Guide Association, Willow Creek, CA. Requested Council to allow California fishermen to have an inriver coho salmon fishery (same as Oregon recreational fishermen).

**B.1.c Council Discussion of Comments as Appropriate**

None.

**C. Coastal Pelagic Species Management**

**C.1 National Marine Fisheries Service Report (04/09/11; 9:51 a.m.)**

**C.1.a Regulatory Activities**

Mr. Mark Helvey provided an update on current seasons, Agenda Item C.1.a, Attachment 1.

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

Mr. Russ Vetter provided a PowerPoint presentation which is on the Council website.

**C.1.c Reports and Comments of Advisory Bodies and Management Entities**

None.

**C.1.d Public Comment**

None.

**C.1.e Council Discussion**

None.

**C.2 Exempted Fishing Permit (EFP) for 2011 Northwest Aerial Survey**

**C.2.a Agenda Item Overview (10:07 a.m.)**

Mr. Kerry Griffin provided the agenda item overview.

**C.2.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Ray Conser provided Agenda Item C.2.b, Supplemental SSC Report. Ms. Brianna Brady provided Agenda Item C.2.b, Supplemental CPSMT Report. Mr. Mike Okoniewski provided Agenda Item C.2.b, Supplemental CPSAS Report.



### **C.2.c Public Comment**

Mr. Mike Okoniewski, Woodland, Washington; spoke on behalf of Northwest Sardine Survey (NWSS).

Mr. Tom Jagielo, NWSS, Seattle, Washington; spoke in support of the proposed survey.

### **C.2.d Council Action: Adopt Final EFP Recommendations**

The Council discussed whether the proposed EFP would allow exempted fishing to occur only during the second period closure, or whether it would also allow exempted fishing to occur during the third period closure. Mr. Helvey said that allowing EFP fishing during the third period closure would conflict with previous Council action and with the way previous years of aerial sardine survey EFP research was carried out. He said that based on March Council action and based on previous years of aerial sardine surveys, the 2011 survey would follow the exact same model as prior years. The question of whether EFP fishing could occur during the third period closure became a moot point.

Mr. Moore moved and Ms. Lowman seconded a motion (Motion 2) to adopt the EFP proposal as outlined in Agenda Item C.2.a, Attachment 1: West Coast Aerial Sardine Survey 2011 Application for Exempted Fishing Permit, Revised; April 2011.

Mr. Moore said we have had thorough review of this EFP at both the March and April meetings, and that requests by CPS Management Team (CPSMT) and Scientific and Statistical Committee (SSC) have been addressed. He said that this is a good use for the data collected under the EFP, and that it is a good example of cooperative research that improves the science.

Mr. Steve Williams noted that while he supports the motion, there will never be enough resources to be able to make this perfect.

Ms. Yaremko supported the motion and the comments of the SSC for additional work (for example, the double read effort on the photo imagery). Mr. Moore also supported those comments of the SSC, but did not know how feasible it would be to address them. But he agreed that to the extent possible, we should get as much information as possible.

Motion 2 carried unanimously.

Mr. Griffin added that the proponents had agreed to provide the specific names of the vessels to NMFS.

## **C.3 Coastal Pelagic Species (CPS) Survey Methodology Review**

### **C.3.a Agenda Item Overview (04/09/11; 11:15 a.m.)**

Mr. Griffin provided the agenda item overview.

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

Mr. Tom Jagielo provided Agenda Item C.3.b, Supplemental SSC Report. Ms. Brianna Brady provided Agenda Item C.3.b, Supplemental CPSMT Report. (1:04 p.m.) Mr. Mike Okoniewski provided Agenda Item C.3.b, Supplemental CPSAS Report.

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

None.

### **C.3.d Council Action: Approve Acoustic-Trawl Methodology for Potential use in CPS Assessments**

Mr. Moore moved and Mr. David Crabbe seconded a motion (Motion 3) to approve the acoustic-trawl methodology for potential use in CPS assessments as shown in Agenda Item C.3.a, Attachments 2 and 3.

Mr. Moore said he has considerable concerns when using this; the same concerns as the SSC. He did not think at this point it is the Council's role to dig into the exact details of a stock assessment we don't have. He hopes that the stock assessment team (STAT) will pay heed to the cautions by the SSC and look at the data carefully, and hopes the Southwest Fisheries Science Center (SWFSC) will be mindful of the SSC's concerns as well.

Ms. Culver supported the motion. She does think it a bit strange because we typically don't approve or endorse independent surveys for stock assessment use as Mr. Moore indicated. It really is up to the STAT and stock assessment authors to determine the choice of different surveys; then through a stock assessment review, then review by SSC. This is one survey the STAT could use, along with their consideration of the CPS assessments.

Ms. Yaremko thanked the SWFSC for their efforts on this. She encouraged the STAT to apply the same level of scrutiny to all sources of data; and she looks forward to seeing the outcome.

Motion 3 carried unanimously.

## **D. Habitat**

### **D.1 Current Habitat Issues**

#### **D.1.a Agenda Item Overview (04/09/11; 1:37 p.m.)**

Ms. Jennifer Gilden provided the agenda item overview.

#### **D.1.b Report of the Habitat Committee**

Mr. Joel Kawahara provided Agenda Item D.1.b, Supplemental HC Report. In response to Council questions, Mr. Kawahara stated that the Habitat Committee (HC) repeatedly asked for

information on how to track the benefits of the (b)(2) water all the way from the headwaters to the Delta, and the Bureau of Reclamation (BOR) repeatedly said they don't track it. There are Endangered Species Act (ESA) requirements that they are using (b)(2) water to fulfill; but they don't account for the water after it has served that purpose. It's very narrow in scope.

Mr. Roth asked if once the water has served its purpose at these particular sites, can it be used for non-fisheries purposes, such as agriculture?

Mr. Kawahara replied yes. Once BOR used the water to follow the specific letter of the court order, they were done; but they do not have an integrated view of the ecosystem from the headwaters to the bay. The BOR person sent to talk to the HC about this was an operations manager, not a policy director. The HC believed he wasn't there to talk about the policy of integrating water uses across the ecosystem and evaded the question.

Ms. Culver asked about the comment period for the letter. She questioned the usefulness of sending a letter to the BOR. Mr. Kawahara recognized that the BOR might evade the question again, but said the HC would like to try again to get its questions answered.

#### **D.1.c Reports and Comments of Advisory Bodies and Management Entities**

Mr. Richard Heap and Mr. Jim Hie provided Agenda Item D.1.c, Supplemental SAS Report.

#### **D.1.d Public Comment**

None.

#### **D.1.e Council Action: Consider Habitat Committee Recommendations**

Ms. Culver stated she was fine with the HC drafting a letter to the Army Corp of Engineers in June concerning the levee vegetation issue, although she was unsure about the need to request an extension to the comment period. Regarding the BOR/(b)(2) water issue, she felt it would not be fruitful to have the Council staff write another letter.

Mr. Steve Williams agreed with Ms. Culver on the BOR letter and supported development of a letter for June with regard to the Corps of Engineers levee vegetation policy. This is a challenging issue, since there are valid issues on both sides.

Mr. Mallet took a different view of the BOR letter. We send these letters, and they answer the easy questions; if we don't make an attempt to call them on this, that's the response we'll always get. He suggested drafting a nice letter asking for these questions to be answered. If they weren't important questions we wouldn't ask them in the first place.

Mr. Helvey asked if there would be value in getting help from United States Fish and Wildlife Service (USFWS) and NMFS on the questions concerning the (b)(2) water?

Mr. Roth noted the USFWS Region 8 Office in Sacramento is engaged in these opinions. That may be a starting point, but he was not optimistic about getting more information from the BOR.

Regarding the Corps of Engineers levee policy, there are conflicts between safety and ecology needs. We need to find some way to balance these. A follow-up letter would be good.

Mr. Wolford stated he agreed with frustration about the lack of a meaningful response from the BOR. If you don't continue to ask and press the issue, then it becomes an acceptable way for the BOR to work. It may be better to ask at a higher level, asking for a Secretarial review. I think just letting the letter die here would be a tragic mistake.

Dr. McIsaac noted that to the BOR's credit, they did answer the letter that we sent and attempt to speak to us. He was not in favor of getting into an exchange of letters. The main point here is, is there a water budget under this (b)(2) provision, and does it work for fish? What would you do in a drought year? Maybe it's a matter of getting one of their appropriate people to come after being told that they would be asked a lot of questions about these ecosystem effects. That would be better than getting into an exchange of letters. I'm trying to discourage having the Council staff write letters back and forth; try using the Federal expertise at the table to find out who might come and how to get to the core of the question.

Mr. Wolford stated he would like to find a way to escalate this by going to a higher level, perhaps requesting the BOR to present information to the entire Council.

Mr. Williams suggested we should take Mr. Helvey up on his offer of having people from NMFS and USFWS inform us about this; then we can decide what to do with the BOR. (There seemed to be consensus on this.)

Ms. Culver moved and Mr. Rod Moore seconded a motion (Motion 4) to have the HC draft a letter to the Army Corp of Engineers requesting they initiate an essential fish habitat (EFH) consultation on the levee vegetation policies and asking for an extension to the comment period; and provide that draft letter to the Council in their June briefing books for consideration.

Motion 4 carried unanimously.

## **E. Administrative Matters**

### **E.1 Marine Spatial Planning Update**

#### **E.1.a Agenda Item Overview (04/09/11; 2:32 p.m.)**

Mr. Griffin provided the agenda item overview.

#### **E.1.b National Ocean Council and Federal Perspective on Coastal Marine Spatial Planning (CMSP)**

Dr. John Stein provided a national perspective on CMSP (Agenda Item E.1.b, Supplemental NOAA PowerPoint (Stein)).

### **E.1.c Regional Perspectives on CMSP Implementation**

Ms. Amy Vierra (California Natural Resources Agency) provided information on CMSP from a regional perspective, including the West Coast Governors' Agreement (WCGA). She noted that the WCGA sees CMSP as a tool, not as an end result.

Mr. Rob Jones spoke on behalf of Mr. Micah McCarty, a member of the Governance Coordinating Committee (GCC). Mr. McCarty would like to hear feedback on how the Council sees the consultation process working between the Council and the regional planning body, in addition to wanting a seat on that body. Second, does the Council have recommendations to the National Ocean Commission (NOC) on the nine strategic action plans (especially priorities); and ongoing, related processes on the West Coast (existing funding and resources already going into the work identified)? Also, does the Council have broader thoughts on the spirit of CMSP, especially on harmonizing the action of the various agencies? The Council has a long track record of working with multiple interests and stakeholders, and CMSP is going to involve this notion of dispute resolution. So any thoughts on lessons learned would be appreciated.

The Council members had several questions of Ms. Vierra and Dr. Stein. With regard to how the regional planning body intended to bring the tribal entities into the planning process, Ms. Vierra stated that the states were waiting for the NOC to provide guidance as to how the regional planning body will be formed. Her understanding is that the NOC is also consulting with tribal governments to determine how they will be appointing their tribal representatives. In response to other questions about how the process would work, Ms. Vierra and Dr. Stein agreed that the planning process should rely heavily on bottom-up management. Another issue raised was ensuring that stakeholders in the industry were adequately informed and involving the Council to achieve this most effectively. It was noted that of the nine national priority objectives, CMSP had been moved out ahead of the others and it was not clear yet if the others would require the same type of planning bodies.

Ms. Culver stated there is some indication that the WCGA would be the core group for the west coast, but that group would be expanded or supplemented with additional Federal/tribal/state representatives. Ms. Vierra replied that the WCGA started in 2006 before the executive order (EO) was created and may be meeting on something, then switch focus to act as the regional planning body. So it's not quite correct to say the WCGA would be the core of the regional planning body, because there are a lot of other stakeholders, like tribes, that are not now involved in the WCGA.

Ms. Culver asked what state representation is expected on the regional body. Ms. Vierra replied her understanding was that each state would have one person on the planning body, and the invitation for who participates would go to the governor's office; so it is the governors' prerogative to decide who represents the state. Dr. Stein added that while it's still being developed, it looks like each state would have a vote on the planning body; that doesn't necessarily mean there won't be more than one state member.

Mr. Sones asked how pollution would be addressed. Do we have an international mechanism to work with other countries on this issue? Mr. Stein stated the role of the GCC would be more to

identify problem areas, so as to make the government entities responsible for that aware of the pollution problem.

Ms. Kirchner asked if the marine spatial planning (MSP) effort would extend from mean high water to 200 miles out. Oregon has a territorial sea plan; how would this process interact with current state MSP processes? Mr. Stein replied that CMSP will not replace existing efforts. The idea is to bring current state planning efforts into the process and incorporate them to look at the entire marine (California Current) ecosystem and to build on existing plans.

**E.1.d Reports and Comments of Advisory Bodies and Management Entities (04/09/11; 3:39 p.m.)**

Mr. Kawahara provided Agenda Item E.1.d, Supplemental HC Report.

**E.1.e Public Comment**

None.

**E.1.f Council Discussion**

Council members agreed that it is critical for the Council to have a seat on the regional body and important to clarify how the tribes will be involved. Dr. McIsaac noted a brochure and letter that includes quotes from the Nature Conservancy advocating regional flexibility for the regional councils to be part of the regional planning bodies. The planning body workshop that was rescheduled had been scheduled right on top of the Council Coordinating Committee meeting, and was rescheduled to late June; an invitation was sent to each of the eight Councils to attend. He thought that showed some receptivity toward this idea of Council participation.

Dr. Stein noted that writing a letter to the GCC members is important, but it really is the NOC that has the final authority to approve the regional planning body members.

Mr. Cedergreen said that a lot of the fishing industry sees this as a way to address those who come in to take away the fishing grounds; others see it as a potential attempt to steamroll the fishing grounds. If this is going to be bottom-up, then leaving the Council out of the process would be viewed by the industry as a rejection of the bottom-up approach. He is not sold on the fact that this will continue to be a bottom-up process in the long term. He noted we've got consensus on writing a letter to the GCC and we can copy it to the NOC, making our views known that we should have a seat at the table.

Regarding lessons learned, Ms. Vojkovich noted it takes a lot of time to do these major endeavors. The Individual Transferrable Quota business has taken seven years. Sometimes you don't get the best input when you push forward without including the people who might be affected. The NOC's constituency is very broad compared to what we deal with at the Council; the planning groups need to consider that. The complexities aren't clear until you get underway. This will take a long time. We have experience with these long processes, and can advise on them.

Mr. Griffin affirmed the Council's intent to draft a letter to the GCC, with a copy to the National Ocean Council. The Council also concurred with his suggestion to copy the letter to the West Coast Governors' Agreement.

## **E.2 Legislative Matters**

This agenda item was cancelled because the Legislative Committee did not meet.

## **E.3 Approval of Council Meeting Minutes**

### **E.3.a Council Action: Approve April 2010 Council Meeting Minutes**

Mr. Moore moved and Ms. Culver seconded Motion 21 to approve the draft April 2010 minutes as provided in Agenda Item E.3.a, Attachment 1, with three corrections. On page 7 correct the misspellings of "Norvell" and on page 11 correct the misspelling of "Ms. Michele Culver" (Staff will search and replace any other misspellings of these names). Motion 21 passed unanimously.

## **E.4 Membership Appointments and Council Operating Procedures**

### **E.4.a Agenda Item Overview (04/13/2011; 5:24 p.m.)**

Dr. Coon provided the agenda item overview from the briefing book. In addition he noted that at a later time the Council Chair would be making appointments to the ad hoc Trawl Rationalization Regulatory Evaluation Committee created under Agenda Item I.7.

### **E.4.b Reports and Comments of Advisory Bodies and Management Entities**

None.

### **E.4.c Public Comment**

None.

### **E.4.d Council Action: Consider Changes to Council Operations and Procedures and Appointments to Advisory Bodies**

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 22 to confirm the appointments of LT Bob Farrell to the California Department of Fish and Game position on the Enforcement Committee with AC Tony Warrington acting as his first designee, and Ms. Vicki Frey to the California Department of Fish and Game position on the HC. Motion 22 passed unanimously.

Mr. Moore moved and Ms. Culver seconded Motion 23 to confirm Mr. Phil Anderson as the Council representative to the U.S. Section of the Joint Management Committee under the U.S.-Canada Pacific Hake/Whiting Agreement.

Motion 23 carried unanimously.

Mr. Sones moved and Ms. Culver seconded Motion 24 to confirm the appointment of Mr. Joe Schumacker to the governmental tribal representative position on the Groundfish Essential Fish Habitat Review Committee (EFHRC) with an alternate of Ms. Jennifer Hagen.

Motion 24 carried unanimously.

## **E.5 Future Council Meeting Agenda and Workload Planning**

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

Dr. McIsaac provided the agenda item overview and went over Supplemental Attachments 3 and 4, noting the changes from the previous attachments for year-at-a-glance and June agenda planning.

### **E.5.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Dan Erickson read Agenda Item E.5.b, Supplemental GMT Report.

### **E.5.c Public Comment**

None.

### **E.5.d Council Discussion and Guidance on Future Meeting Agenda and Workload Planning**

Mr. Moore and Dr. Hanson suggested that the Council schedule a tentative Legislative Committee for June.

Ms. Kirchner recommended moving the preliminary EFP review schedule from June to September.

Dr. McIsaac spoke to the SSC workload issue with regard to the data-poor workshop and how any new information resulting from that workshop would be handled. To be handled in June and available for the 2013-2014 seasons, it is necessary to have some Council direction and terms of reference (TOR) prior to the June meeting.

Council members were very concerned with the additional workload and bringing new data into the process at this late date. However, there was also concern in ignoring what may end up being the best available science as a result of the workshop and what could be significant for the next season setting process.

Ms. Culver moved and Mr. Lockhart seconded a motion (Motion 25) that for the June Council meeting, as part of the agenda item for the report from the SSC on results of the June Stock Assessment Review (STAR) panel assessments, that we would also get a report on the results of the April workshop and the SSC recommendations for whether or not to use that methodology, and a draft TOR for the Council to consider, with the expectation that through that consideration



the Council would decide whether to accept the TOR as a draft and whether the timing of implementation would be for the 2013-2014 or the 2015-2016 fishing seasons.

Motion 25 carried (Ms. Vojkovich voted no).

## **F. Pacific Halibut Management**

### **F.1 Incidental Catch Regulations for the 2011 Salmon Troll Fishery**

#### **F.1.a Agenda Item Overview (04/09/11; 4:10 p.m.)**

Mr. Chuck Tracy presented the agenda item overview.

#### **F.1.b Reports and Comments of Management Entities and Advisory Bodies**

Mr. Paul Heikkila and Mr. Jim Olson presented Agenda Item F.1.b, Supplemental SAS Report.  
Mr. John Holloway presented Agenda Item F.1.b, Supplemental GAP Report.

#### **F.1.c Public Comment**

Mr. Joel Kawahara, troller, Quilcene, WA.

#### **F.1.d Council Action: Adopt Final Incidental Catch Regulations for 2011**

Mr. Anderson moved (Motion 5) to adopt Option 1, Status Quo: – Beginning May 1, license holders may land no more than one halibut per each **three** Chinook, except one halibut may be landed without meeting the 1:3 ratio requirement, and no more than **35** halibut may be landed per trip. Halibut retained must be no less than 32 inches in total length (with head on). Ms. Gway Kirchner seconded the motion.

Motion 5 carried unanimously.

## **G. Salmon Management**

### **G.1 National Marine Fisheries Service Report**

#### **G.1.a Agenda Item Overview (8:07 a.m.)**

Mr. Tracy presented the agenda item overview.

#### **G.1.b Regulatory Activities**

Mr. Rod McInnis presented Agenda Item G.1.a, Supplemental NMFS SWR PowerPoint.  
Dr. Cisco Werner presented Agenda Item G.1.a, Supplemental NMFS SWFSC PowerPoint.

Dr. Peter Dygert provided the following update on Northwest Region activities:

- NMFS has accepted a petition to list Klamath Basin Chinook stocks under the ESA.

- The recommendation that Klamath River fall Chinook be considered rebuilt was approved by NMFS headquarters.
- Recommendations to NMFS headquarters for Sacramento River fall Chinook and Queets coho status relative to their overfished determination are ongoing.
- Recommendation for status of Strait of Juan de Fuca coho is on hold until additional information from the co-managers relative to appropriate status determination criteria is received and reviewed, possibly through the Salmon FMP Amendment 16 process.

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

None.

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

None.

### **G.1.e Council Discussion on NMFS Salmon Report**

None.

## **G.2 Tentative Adoption of 2011 Ocean Salmon Management Measures for Analysis**

### **G.2.a Agenda Item Overview (04/10/11; 9:30 a.m.)**

Mr. Tracy presented the agenda item overview.

### **G.2.b Update of Estimated Impacts of March 2011 Alternatives**

Dr. Robert Kope presented Agenda Item G.2.b, Supplemental STT Memo.

Mr. Anderson asked if the Canadians were considering conservation restrictions that would reduce Chinook impacts to levels below those allowed under the Pacific Salmon Treaty (PST). Dr. Kope replied no, expectations were that Canadians would fish up to allowable limits.

### **G.2.c Summary of Public Hearings**

Mr. Mark Cedergreen summarized Agenda Item G.2.c, Supplemental Hearing Report 1. Mr. Rod Moore summarized Agenda Item G.2.c, Supplemental Hearing Report 2. Mr. David Crabbe summarized Agenda Item G.2.c, Supplemental Hearing Report 3.

### **G.2.d Recommendations of the U.S. Section of the Pacific Salmon Commission**

Mr. Gordy Williams reported that the allowable catch levels in Pacific Salmon Commission (PSC) fisheries presented by Dr. Kope were final. The PSC was engaged in discussions about converting mortality calculations from a landed catch basis to a total mortality basis, but those discussions would not affect 2011 fisheries. While the northern B.C. troll fisheries planned to fish up to their limits, in recent years they have not done so.

Dr. McIsaac asked why the B.C. fisheries have consistently not caught their entire quota. Mr. Gordy Williams replied that those fisheries are monitored with genetic stock identification sampling and when the fishery reaches self-imposed impact limits on Canadian stocks, the fishery has been closed.

#### **G.2.e Recommendations of the North of Cape Falcon Forum Oregon, Washington, and Tribes**

Mr. Anderson reported the parties in the North of Falcon Process were making progress in their negotiations to date.

#### **G.2.f Reports and Comments of Advisory Bodies and Management Entities**

Messrs. Butch Smith, Jim Olson, Paul Heikkila, Duncan MacLean, Steve Watrous, Richard Heap, Mike Sorenson, and Paul Pierce presented Agenda Item G.2.f, Supplemental SAS Report. Several corrections to the options were made, which are reflected in Agenda Item H.2.b, Supplemental STT Report.

Messrs. Chris Williams, Bruce Jim, Herb Jackson, and Wilbur Slockish Jr., Columbia River Treaty Tribes, presented Agenda Item G.2.f, Supplemental Tribal Report.

Mr. Dave Hillemeier, Yurok Tribe, said the Yurok Tribe does not support the implementation of quota fisheries affecting Klamath River fall Chinook. They prefer time/area-based fisheries. If the Council does implement quota fisheries, they recommend not allowing unused quota to be rolled into a subsequent quota fishery. Klamath Basin spring Chinook are declining, and the Yurok Tribe has instituted additional conservation measures recently. The Yurok Tribe recommends minimizing May fisheries in the ocean to minimize impacts to Klamath Basin spring Chinook.

Mr. Mike Orcutt, Hoopa Valley Tribe, said the Hoopa Valley Tribe supported Alternative 1, which maximizes tribal take. The Hoopa Valley Tribe supports the Yurok Tribe's comments relative to quota fisheries. The Hoopa Tribe does not support fall fisheries in the Klamath management zone (KMZ) that impact escapement the following year (credit card fisheries) before those impacts can be predicted.

Ms. Vojkovich asked if having a landing limit on the quota fishery mitigated some of the sensitivity toward a quota fishery. Mr. Orcutt replied he would support any movement toward conservative management of ocean fisheries.

Mr. Anderson noted that due to a number of factors, the allowable impacts on Lower Columbia River natural tule Chinook in Council area and Columbia River fisheries was about seven percentage points lower than in 2010, which is significant given that there were only about 20 percentage points to work with. An abundance-based management approach for this stock would provide an important improvement in management flexibility in the future.

Ms. Vojkovich noted the California Fish and Game Commission was able to take emergency action to open recreational fisheries on April 2. Opening the KMZ recreational fishery in May could require similar consideration of process timing.

### **G.2.g Public Comment**

Mr. Jim Yarnell, Humboldt Area Saltwater Anglers, Eureka, CA  
Mr. Ben Platt, Fort Bragg Fishermen's Association, Fort Bragg, CA  
Mr. Ben Doane, KMZ Fisheries Coalition, Willow Creek, CA  
Mr. Jim Caito, Caito Fisheries, Fort Bragg, CA  
Mr. Jeff Richards, recreational fishermen, San Carlos, CA  
Mr. Mike Caporale, Coastside Fishing Club, San Jose, CA  
Mr. Duane Winter, Coastside Fishing Club, San Mateo, CA  
Mr. Duncan MacLean, Fishermen's Marketing Association, Half Moon Bay, CA  
Mr. Dave Bitts, PCFFA, Eureka, CA  
Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA

### **G.2.h Council Action: Adopt Tentative 2011 Ocean Salmon Management Measures for Analysis (04/10/11; 1:04 p.m.)**

Based on Agenda Item G.2.f, Supplemental SAS Report, Ms. Vojkovich, Mr. Steve Williams and Mr. Anderson provided direction to the STT for preliminary analysis of 2011 ocean salmon management measures as reflected in Agenda Item G.4.b, Supplemental STT Report.

Mr. David Sones presented Agenda Item G.2.h, Supplemental Tribal motion as guidance to the STT.

### **G.3 Methodology Review Process and Preliminary Topic Selection for 2011**

#### **G.3.a Agenda Item Overview (04/10/11; 1:17 p.m.)**

Mr. Tracy presented the agenda item overview.

#### **G.3.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Tracy read Agenda Item G.3.b, TCW Report. Dr. Peter Lawson presented Agenda Item G.3.b, Supplemental SSC Report. Dr. Robert Kope presented Agenda Item G.3.b, Supplemental STT Report. Mr. Andy Rankis presented Agenda Item G.3.b, Supplemental MEW Report. Mr. Butch Smith presented Agenda Item G.3.b, Supplemental SAS Report. Mr. David Sones presented Agenda Item G.3.b, Supplemental Tribal Report.

#### **G.3.c Public Comment**

None.

#### **G.3.d Council Guidance on Potential Methodologies to Review in 2011**

Mr. Wolford requested risk analyses in fall "credit card" fisheries and age structure in the Sacramento Harvest Model be considered in this or future methodology reviews, but at a minimum the STT should identify data needs necessary to conduct those reviews.

Mr. Steve Williams stated that the Oregon coastal natural matrix revision was in internal review, and depending on workload priorities, it may be ready for review in 2011.

Mr. Anderson recommended items 2, 3, and 4 in Agenda Item G.3.b, Supplemental SSC Report move forward for review in 2011. Item 1 should move forward, but should include fisheries both north and south of Cape Falcon.

Mr. Cedergreen directed the Tule Chinook Workgroup (TCW) to evaluate the abundance-based approach proposed in Agenda Item G.3.b, Supplemental SAS Report.

#### **G.4 Clarify Council Direction on 2011 Management Measures**

##### **G.4.a Agenda Item Overview (04/11/11; 3:08 p.m.)**

Mr. Tracy presented the agenda item overview.

##### **G.4.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Robert Kope presented Agenda Item G.4.b, Supplemental STT Report.

Dr. Michael O'Farrell and Ms. Melodie Palmer-Zwahlen presented Agenda Item G.4.b, Supplemental STT PowerPoint.

##### **G.4.c Public Comment**

None.

##### **G.4.d Council Guidance and Direction**

Based on Agenda Item G.4.b, Supplemental STT Report, Ms. Vojkovich, Mr. Steve Williams, Mr. Anderson, and Mr. Sones provided direction to the STT for clarifying 2011 ocean salmon management measures as reflected in Agenda Item G.6.b, Supplemental STT Report.

#### **G.5 Salmon Essential Fish Habitat (EFH) Review Final Report**

##### **G.5.a Agenda Item Overview (04/12/11; 10:18 a.m.)**

Mr. Griffin provided the agenda item overview.

##### **G.5.b Report of the NMFS Salmon EFH Oversight Panel**

Mr. John Stadler provided a PowerPoint, which is on the website.

##### **G.5.c Reports and Comments of Management Entities and Advisory Bodies**

Dr. Dorn read Agenda Item G.5.c, Supplemental SSC Report. Dr. Kope read Agenda Item G.5.c, Supplemental STT Report. Mr. Tom Welsh read Agenda Item G.5.c, Supplemental SAS Report. Mr. Kawahara read Agenda Item G.5.c, Supplemental HC Report. Mr. Wilbur Slockish, Jr., read

Agenda Item G.5.c, Supplemental Tribal Report. Mr. Stuart Ellis added that the Warm Springs representative found another piece of misinformation in the document that would be provided to staff. They also emphasized that there should be consultation with the Tribes; mistakes in these papers can be ironed out before they are brought before the Council.

#### **G.5.d Public Comment (11:25 a.m.)**

Mrs. Irene Martin and Mr. Kent Martin, gillnetters, Skamokawa, WA  
Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA

#### **G.5.e Council Action: Accept Final Report and Provide Future Guidance**

Mr. Ortmann said he was not sure about how this should be handled. Overall the report is well done, but has some errors that need correction. He asked whether we are in fact heading to an FMP amendment.

Mr. Bob Turner indicated that it is clear the derelict gear provision has cause for concern and accepting the report, if corrected, does not of itself require a Fishery Management Plan (FMP) amendment. He asked Dr. Stadler about correcting the identified errors. Dr. Stadler came to the podium and indicated he could make the corrections, either in a revised report or by some letter. He was certain that it is an issue we could deal with.

Mr. Moore indicated that overall the report is a very well done document, but with several identified errors, especially on the gillnet issue, he would be loathe to approve it without knowing what the correction would be.

Dr. McIsaac stated that the Magunson-Stevens Fishery Conservation and Management Act (MSA) says that the Secretary shall provide the councils with information for the councils' review of EFH. The materials in front of us say "accepting" the report. Typically we "adopt" a report, and he gave some examples. It is a large document, and there are corrections, and the authors probably agree with those corrections (e.g., Pelton and Round Butte Dams). It would seem that if the Council wants to have the report as a basis for their EFH decision-making, that they would want a clear report. Whatever the Council feels are corrections on the report, should be identified. As long as it's clear on the record, we can proceed with the other steps.

Mr. Moore asked if we accept the panel's report, does it then become a "Council document"? And how does it then get characterized? Is it another EFH tool for the Council to use to take action? Dr. McIsaac said that the Council can adopt portions of the report, with exceptions for those parts it is not comfortable with. I'm not sure you have to call it a "Council document" but you can still use it for Council decision-making.

Mr. Turner said that if the Council wants to amend EFH, it will need a document to reflect what they have considered. If this is the document, then it should get corrected first. But if it is just a "public testimony" document, then so be it and the committee can fix.

Mr. Steve Williams asked why we are having difficulty correcting the document. If we have recommendations and testimony, with a number of items that need fixing, if that can be done, then what am I missing? (Wondering why that should be a challenge).

Mr. Anderson said he would want an opportunity to review the document with more time and have it come back to the Council in June. There were other discrepancies and errors that have been pointed out, so he suggested having the authors take what we had to say and bring us another document with those revisions. And he would like to be able to have a deadline to get back to Council staff if the Council finds any more errors. He did think it was notable that there were only three public comments.

Mr. Anderson thought we don't necessarily need to delay our action. For the "fishing threat item" he would like more clarification, as well as on the hake fishery, which has grown off Washington in the past four or five years. The balance of the recommendations are adequate to update our EFH document; and the changes to the EFH extent would require an FMP amendment. He does not like just setting the document aside, because that document is what we are for a large part premising our decision on, for amending salmon EFH. He would like to get it all cleaned up though so everyone is comfortable with it.

Mr. Steve Williams concurred with Mr. Anderson's comments. He also recognized there are a lot of good things here. The document does a good job laying out the important elements of the issues. But obviously there are a few items that need to be corrected.

Mr. Turner said, regarding the group making corrections, if the Council is intent on pursuing an amendment, that makes the work to correct the document more time sensitive and we will figure out a way to fix it. If the Council isn't interested in an amendment, that's a little different.

Mr. Herb Pollard made some comments about the document. The geographical and physical description of EFH, everyone generally agrees with those. Okay with most of it, but when you get to section 4, the threats to EFH, it is a shotgun approach for some very specific things, such as derelict gear. And some very large things, such as navigation and channel management. He suggested that maybe for the threats to EFH, e.g. the hydropower Biological Opinion; water issues; flood control, they could be treated in a more general way. It might solve the problem of having to pick out singular items. He suggested focusing on the accuracy of the maps where EFH exists.

Dr. McIsaac summarized, noting that the Council is not ready to accept the panel report now, but at a later time. Second, the Council should decide if they want to do anything about the items in Attachment 2, which is a summary of the conclusions and recommendations of the panel.

Mr. Anderson in looking at the list of recommendations, would like to move forward with everything but the fishing and nonfishing threats, and have the authors update the document and bring it back in June and then also make our decisions in June about including the fishing and nonfishing threats.

Mr. Anderson moved and Mr. Steve Williams seconded a motion (Motion 13) to move forward with all the items in G.5.b, Attachment 2, except the fishing and non-fishing threats sections, and consider those at the June meeting, after receiving a revised report. It was noted that at that time the Council could determine whether or not to proceed with an FMP amendment to incorporate any changes.

Motion 13 carried unanimously.

## **G.6 Final Action on 2011 Management Measures**

### **G.6.a Agenda Item Overview (04/13/11; 1 p.m.)**

Mr. Tracy presented the agenda item overview.

### **G.6.b Reports and Comments of Management Entities and Advisory Bodies**

Dr. Kope presented Agenda Item G.6.b, Supplemental STT Report.

Mr. Pat Pattillo noted that the inriver fishery affecting Skokomish summer/fall Chinook has not been set sufficient to evaluate the projected compliance with the NMFS ESA consultation standard, but the objective of the co-managers was to achieve that standard.

Messrs. Chris Williams, Bruce Jim, Herb Jackson, and Wilbur Slockish Jr., Columbia River Treaty Tribes, presented Agenda Item G.6.b, Supplemental Tribal Report.

Ms. Vojkovich presented Agenda Item G.6.b, Supplemental CDFG report.

### **G.6.c Public Comment**

Mr. E.B. Duggan, Trinity River Guides Association, Trinity, CA

### **G.6.d Council Action: Adopt Final Management Measures for 2011 Ocean Salmon Fisheries (04/13/11; 1:28 p.m.)**

Mr. Sones moved (Motion 14) to adopt the 2011 ocean salmon fisheries management measures as shown in Agenda Item G.6.d, Supplemental Tribal Motion. Mr. Pattillo seconded the motion.

Motion 14 carried unanimously.

Mr. Pattillo moved (Motion 15), to adopt the 2011 non-Indian commercial and recreational salmon management measures for the area north of Cape Falcon as presented in Agenda Item G.6.b, Supplemental STT Report. Mr. Myer seconded the motion.

Motion 15 carried unanimously.

Mr. Steve Williams moved (Motion 16) to adopt the 2011 non-Indian commercial and recreational salmon management measures for the area between Cape Falcon and the



Oregon/California border as presented in Agenda Item G.6.b, Supplemental STT Report. Mr. Moore seconded the motion.

Motion 16 carried unanimously.

Ms. Vojkovich moved (Motion 17) to adopt the 2011 non-Indian commercial and recreational ocean salmon management measures for the area between the Oregon/California border and the U.S./Mexico border as presented in Agenda Item G.6.b with the following changes:

- Delete the commercial fishery in the California KMZ scheduled for September 15-30 and in the area south of Point Sur scheduled for September 1-30;
- Close the recreational fishery in the Fort Bragg and San Francisco areas October 30, and in the areas south of Point Sur September 18;
- Open the 2012 recreational fishery in Fort Bragg on April 7, 2012.

Mr. Brizendine seconded the motion.

Ms Vojkovich noted the modifications included in Motion 17 were intended to reduce potential impacts to the 2012 Klamath River fall Chinook return. The Commercial KMZ fisheries in July and August were intended to replace the traditional September opportunity and provide some economic relief to those communities given recent year fisheries closures and port damage from the tsunami in March 2011, and to collect data for modeling impacts in the future. Reducing the commercial and recreational fisheries south of Point Sur in September and delaying the Fort Bragg recreational opening in 2012 would reduce sampling costs where very few are caught that time of the year.

Mr. Wolford noted the proposed recreational management measures in California were also structured around reducing impacts on ESA-listed Sacramento winter-run Chinook.

Motion 17 carried unanimously.

## **H. Highly Migratory Species Management**

### **H.1 National Marine Fisheries Service Report**

#### **H.1.a Southwest Region Activity Report (04/10/11; 2:23 p.m.)**

Mr. Mark Helvey summarized Agenda Item H.1.a, NMFS SWR Report. He referenced Agenda Item H.1.a, Supplemental Attachment 2 and Agenda Item H.1.a, Supplemental Attachment 3.

#### **H.1.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Doug Fricke read Agenda Item H.1.b, Supplemental HMSAS Report.

#### **H.1.c Public Comment**

Mr. Bill Sutton, F/V Aruila, Ojai, CA.

Mr. Joel Kawahara, troller, Quilcene, WA.  
Mr. Bob Osborn, United Anglers, Irvine, CA.

#### **H.1.d Council Discussion**

Mr. Moore asked Mr. Feder whether the Shark Conservation Act of 2010 included a definition of what constituted a shark. Mr. Feder replied that sharks are already defined in regulations but he would have to check the applicability to the provisions of the Act.

### **H.2 North Pacific Albacore Tuna Conservation and Management**

#### **H.2.a Agenda Item Overview (04/10/11; 3:02 p.m.)**

Dr. Kit Dahl provided the agenda item overview.

#### **H.2.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Steve Stohs presented Agenda Item H.2.b, Supplemental HMSMT PowerPoint; Agenda Item H.2.b, HMSMT Report, and Agenda Item H.2.b, Supplemental HMSMT Report 2. Mr. Doug Fricke presented Agenda Item H.2.b, Supplemental HMSAS Report.

#### **H.2.c Public Comment**

Mr. Chip Bissell, American Seafoods, Seattle, WA.

#### **H.2.d Council Action: Provide Guidance for further Analyses to Support Council Management Decisions and for the Development of Preliminary Recommendations for Conservation Measures at the International Level**

Mr. Moore asked Mr. Helvey to communicate the requests for fishery data in the Highly Migratory Species Advisory Subpanel (HMSAS) Report to the Canada Department of Fisheries and Oceans. Mr. Helvey said he would forward the request through the U.S. State Department.

Mr. Steve Williams sought clarification on when Regional Fishery Management Organizations (RFMOs) might adopt measures in response to the pending North Pacific albacore assessment and what constraints that placed on the Council developing recommendations. Mr. Helvey reviewed likely courses of action, noting that the assessment results are likely to be considered by the Western and Central Pacific Fisheries Commission (WCPFC) Northern Committee in September 2011 and the full Commission in December 2011. If the Inter-American Tropical Tuna Commission (IATTC) were to consider measures at its annual meeting in July 2011, the Council would not be able to develop recommendations in time but could submit them for their meeting in 2012.

Mr. Moore asked how long the Council would have to respond if NMFS were to declare the North Pacific albacore stock subject to overfishing per MSA Section 304(i). (Section 304(i) requires a Council recommendation within one year of the Secretarial determination.) Mr.

Moore noted this could include the need to develop domestic regulations to address the relative impact of U.S. fishing vessels on the stock.

Ms. Vojkovich emphasized the need to develop recommendations for U.S. delegations in the short term. Dr. McIsaac restated the task of providing guidance to the HMSAS and Highly Migratory Species Management Team (HMSMT) to develop responses to hypothetical stock assessment scenarios for the June Council meeting on which to base recommendations to the IATTC and WCPFC Northern Committee, which meet before the September Council meeting.

Mr. Moore reiterated that there were two potential tasks; one was to develop recommendations for the U.S. delegations, based on HMS advisory body input; the second could be to develop domestic regulations if the stock assessment leads to Section 304(i) overfishing declaration.

Mr. Anderson requested NMFS to provide more information on Canadian albacore harvest in the U.S. Exclusive Economic Zone (EEZ) in order to prepare for upcoming negotiations over the U.S.-Canada albacore treaty.

Ms. Vojkovich suggested that the HMS advisory bodies could compile information and recommendations provided at past meetings, such as the 2007 characterization of U.S. fishing effort directed towards North Pacific albacore and the albacore white paper developed under a NMFS contract. She said the task is more a matter of assembling this existing information.

Mr. Moore agreed that the Council has been provided with a lot of information already, but suggested that a useful task for the HMSAS and HMSMT would be to prioritize management responses based on a “worst case scenario” stock assessment result.

Dr. McIsaac recommended the complex measure developed by the WCPFC to address bigeye tuna overfishing in the Western Pacific, CMM 2008-01, as a resource for identifying the types of conservation measures employed by RFMOs. The advisory bodies could take these into consideration along with the U.S.-Canada treaty and potential Canadian positions in developing recommendations based on the premise that the stock assessment reveals a problem with stock size and/or the fishing mortality rate.

## **I. Groundfish Management**

### **I.1 National Marine Fisheries Service Report**

#### **I.1.a Regulatory Activities (04/10/2011; 4:23 p.m.)**

Mr. Frank Lockhart provided information on consultations, the tribal whiting rule, and transition from the Council process to the whiting treaty process over the next year. He discussed the schedule for the whiting treaty process, and asked if the appointment for the Joint Management Committee seat from the commercial sector should be a nomination process.

Mr. Anderson asked several question about trainers for crew in the tribal fisheries; he was curious about National Oceanic and Atmospheric Administration’s (NOAA) perspective on

engaging non-Indian trainers in the tribal fishery. He also asked about the process for including the state of Washington in the tribal whiting process. NOAA plans to start the process discussions in May.

### **I.1.b Fisheries Science Center Activities**

Mr. John Ferguson, Dr. John Stein, and Dr. Michelle McClure (Fishery Regulation Assessment Model Division) reported on Fisheries Science Center activities. Mr. Ferguson provided updates on groundfish activities, starting with catch shares and observers. He discussed the training schedule for observers and discussed transfer of discard data from the observer program through Pacific States Marine Fisheries Commission (PSMFC) to the Northwest Region (NWR) website; the process is delayed, but they are working on it. He provided an update on survey dates and noted they would like to do an annual hake/sardine survey. This year they plan to test a midwater trawl in the hake survey to see if they can also fish for sardines at night. He provided an update on assessment activities and explained upcoming economic data collection activities to establish baseline economic data in the catch shares program. These surveys are mandatory and not optional.

### **I.1.c Reports and Comments of Advisory Bodies and Management Entities**

None.

### **I.1.d Public Comment**

Mr. Brent Paine, United Catcher Boats, Seattle, Washington; spoke on the tribal set-aside issue (rolling over of unused harvest between tribal and non-tribal sectors) and asked about the possibility of a rollover this season.

### **I.1.e Council Discussion**

None.

[Council adjourned for the day on 4/10/2011 at 5:13 p.m.]

## **I.2 Proposed Process and Schedule for Completing the 2013-2014 Groundfish Biennial Fishery Specifications and Management Measures**

### **I.2.a Agenda Item Overview (04/11/11; 8:05 a.m.)**

Ms. Kelly Ames provided the agenda item overview, see Agenda Item I.2.a, Supplemental Staff Agenda Item Overview PowerPoint.

### **I.2.b Groundfish Process Improvement Committee Report**

Ms. Ames provided the summary in her PowerPoint under Agenda Item I.2.a.

### **I.2.c Reports and Comments of Advisory Bodies and Management Entities**

Dr. Stein, Mr. Ferguson, and Dr. Hastie presented Agenda Item I.2.c, Supplemental NWFSC PowerPoint.

Mr. Lockhart referred to Agenda Item I.2.c, Supplemental NMFS Report (Letter to Mark Cedergreen Regarding PIC Recommendations and Schedule).

Dr. Martin Dorn and Dr. Todd Lee presented Agenda Item I.2.c, Supplemental SSC Report.

A short time from 10:50 to 11 a.m. was provided for silent reading of the Groundfish Management Team (GMT) report. Mr. Corey Niles answered questions regarding Agenda Item I.2.c, Supplemental GMT Report. Mr. John Holloway presented Agenda Item I.2.c, Supplemental GAP Report.

### **I.2.d Public Comment**

Mr. Jeff Russell, NRDC, San Francisco, CA  
Mr. Ralph Brown, trawler, Brookings, OR  
Mr. John Holloway, RFA, Portland, OR  
Mr. Geoff Shester, Oceana, San Francisco, CA

### **I.2.e Council Action: Adopt a Process and Schedule for Public Review (1:33 p.m.)**

Mr. Dan Wolford said he appreciated the work completed by the Process Improvement Committee (PIC), they have presented a detailed schedule. Once the Council adopts the schedule we will have to remain disciplined to stay on target; there is little room for error in this schedule.

Ms. Mariam McCall also appreciated the work of the PIC and comments of the advisory bodies. The NOAA General Counsel is committed to participate as often as we can. However, the workload of General Counsel can change on a daily basis, and litigation is the priority. Further, there are budget issues that may limit attendance to the various meetings. Ms. McCall also spoke to the Federal Advisory Committee requirements with regard to scheduling future meetings of the various project teams.

Mr. Lockhart appreciated the advisory body reports and public comment. In particular, Mr. Ralph Brown's comment gets to the heart of the matter – there must be clear justification for the decisions. The challenge, as noted by Mr. Holloway, is the analysis and documentation with regard to the rebuilding standards in the Magnuson-Stevens Act, especially when there are such small differences in the annual catch limit alternatives.

Dr. Don McIsaac asked about the legal requirements of the revised National Standard One Guidelines and the stock complex issue. Ms. McCall said the regulations and FMP should be consistent with the National Standard Guidelines, noting that guidelines do not have the force of law. Ms. McCall said the revised guidelines came out after work on the 2011-2012 management process had already begun. There was action on the part of the advisory bodies to respond to the revised guidelines with regard to complexes. General Counsel recognizes that there is significant

scientific and management work that needs to be done to support revisions. It is important to make progress on developing the considerations.

Ms. Marija Vojkovich asked if there was any discussion about improving the readability of the draft environmental impact statement (EIS) and documents to assist in decision-making. Ms. Ames and Mr. Lockhart said yes, both Council staff and NMFS are looking for improvements.

Mr. Wolford asked if staff had the opportunity to discuss the proposed schedule in Agenda Item I.2.c, Supplemental NMFS Report, which calls for 60 days between the end of the public comment period on the draft EIS and the submittal of the final EIS. Dr. McIsaac said there was some discussion about the impacts, and staff wondered if a 45-day period might be sufficient.

Ms. Michele Culver moved and Mr. Dale Myer seconded a motion (Motion 6), working from both the SSC and GMT Reports:

- Adopt the recommendations and requests included in Agenda Item I.2.c, Supplemental SSC Report;
- Relative to the depth dependent mortality rates (page 3, Supplemental GMT Report), this is a low priority and the GMT should not spend time updating these rates (with data from 2008-2010), for the 2013-2014 cycle;
- Relative to evaluating the short and long-term conservation performance of the Council's rebuilding plans and economic framework; the GMT should develop a list of questions for SSC consideration at the June meeting. The GMT and SSC will have a follow-up discussion at the November Council meeting;
- Relative to the stock complex evaluation (page 4, Supplemental GMT Report), the GMT should proceed with the next steps in the analysis for Council review in June. Also, begin work on the Productivity and Susceptibility Analysis (PSA) for the September meeting.
- Schedule revisions of Council Operating Procedure (COP) 19 to comport the EFP process with the biennial schedule (page 5, Supplemental GMT Report), for review at the June Council meeting;
- Further explore the programmatic FMP framework (page 6, Supplemental GMT Report), with particular attention on the two options in Agenda Item I.2.a, Supplemental Attachment 1 for discussions in June.

Ms. Culver said there has been considerable discussion about the recommendations in the Supplemental SSC report. The SSC is recommending that the current sigma value remains in place for the next cycle; it will be updated for 2015-2016. The SSC and GMT are in agreement relative to providing considerations to the Council which would inform future P\* decisions. Ms. Culver said the SSC and GMT were in agreement that the stock complex analysis, using the PSA, should move forward. The SSC also recommended several models for review (page 2, Supplemental SSC report). Further, Ms. Culver said, the socio-economic white paper recommended by the SSC will not arrive in time to support decision-making for the 2013-2014 cycle. However, we should still continue to make progress. Ms. Culver said the GMT report spoke to the depth-dependent mortality issue, however, she felt it was a lower priority relative to the other items. Relative to the short and long-term performance of the rebuilding plans, this issue directly relates to the discussions in the Supplemental Groundfish Advisory Subpanel (GAP) and GMT reports. Ms. Culver is sympathetic to the workload that can result from further

investigations of the stock complexes; however, she believes the Council made a commitment to continue to explore this issue for the 2013-2014 cycle. Both the GMT and GAP recommended modifications to COP 19 to align with the biennial process. Ms. Culver believes we have the best possible process for the 2013-2014 cycle; however, it is clear that long-term solutions are necessary. Ms. Culver also noted that much of the focus to date has been relative to deadlines and not the analysis that is important to inform the decisions. This needs to be considered.

Mr. Moore said he supported the motion and asked if the GAP would be involved in developing long-term solutions. Ms. Culver said yes.

Mr. Wolford agreed with the low priority status of the depth-dependent mortality issue and noted there is also a national conference on that issue. He asked if new recreational economic data sources could be incorporated. Ms. Culver said yes.

Ms. Vojkovich asked Ms. Culver to outline her expectations on the stock complex products that would be presented to the Council in June. Ms. Culver noted that the GMT was conflicted regarding the workload associated with the task, however they offered to explore the issue further for the June Council meeting. She noted the flow chart of anticipated work products (Attachment 2). Mr. John DeVore said the PSA analysis could be updated for the June briefing book. He also said the analysis could include those species that are outside the FMP. Ms. Culver clarified that she would like the GMT to begin work on the PSA, however it does not have to be done for June.

Ms. Vojkovich asked about the time frame for the proposed FMP amendment. Ms. Culver said both the GMT and GAP agree that something should be done in time for the 2015-2016 cycle. Her motion is to look at the options in Supplemental Attachment 1 for discussion in June.

Motion 6 carried unanimously.

Mr. Moore asked for clarification regarding the data-poor stock assessment issue. Mr. Lockhart said the Fishery Science Centers can move forward on the methodologies. It would be useful to have future Council guidance on how to incorporate the assessments into the process. Mr. DeVore noted it was necessary for the SSC to develop TOR for adopting the data-poor assessments, if assessments are to be considered for the 2013-2014 cycle.

Mr. Moore moved and Ms. Kirchner seconded a motion (Motion 7) to adopt the draft process and schedule in Agenda Item I.2.b, Draft Proposed Schedule, with a change in the date of the Notice of Availability of the draft EIS of May 18, 2012, as recommended by NMFS.

Mr. Moore said there has been significant discussion regarding the process and schedule. We will continue to have those discussions from now until the June Council meeting when the Council is scheduled to adopt the final schedule. We can modify the schedule, as necessary. Mr. Moore said he would like to find ways to incorporate the public comment on socio-economic impacts received at Council meetings into the EIS.

Ms. Culver and Ms. Vojkovich encouraged the NWR Region to examine timing of steps relative to GMT, state, and NMFS staff workload. Ms. Culver was particularly concerned with moving up the front part of the schedule to provide more time at the end, per the NMFS request. Mr. Lockhart said the agency will explore the schedule post-Council meeting.

Mr. Moore noted he is cognizant of the GMT workload concerns; however, we need to start some place.

Motion 7 carried unanimously.

Mr. Lockhart noted that the Northwest Fisheries Science Center (NWFS) will continue work on the data-poor methodologies for Council discussion in June, if appropriate.

### **I.3 Periodic Groundfish Essential Fish Habitat Review Process**

#### **I.3.a Agenda Item Overview (04/11/11; 3:35 p.m.)**

Mr. Kerry Griffin provided the agenda item overview.

#### **I.3.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Dorn read Agenda Item I.3.b, Supplemental SSC Report. Mr. Holloway read Agenda Item I.3.b Supplemental GAP Report. Mr. Kawahara read Agenda Item I.3.b, Supplemental HC Report. Mr. Rob Jones presented Agenda Item I.3.b, Supplemental NWIFC PowerPoint.

#### **I.3.c Public Comment (04/11/11; 4:28 p.m.)**

Mr. Geoff Shester, Oceana, San Francisco, CA

#### **I.3.d Council Action: Review and Approve the Proposed Process Changes to Council Operating Procedure 22**

Mr. Sones moved and Mr. Moore seconded a motion (Motion 8) to establish a group of appropriate tribal, Federal, and state scientists and/or managers to develop standards and criteria for determining if proposals for coral and sponge protection are the best suited for management under the groundfish FMP; particularly as EFH or through other available existing authorities. The group would report back to the Council with alternatives and any recommendations for sponge and coral management under the discretionary provisions recognized by the MSA. He emphasized that this would be done through a TOR [for this group], not under COP 22.

Mr. Lockhart asked how this fits into the EFH review. Mr. Sones said the group would set the standards for the EFH review of corals and sponges.

Mr. Wolford asked if it would be the EFHRC that set the standards. Mr. Sones replied no, this is a standards committee for the EFHRC to follow (separate committee).



Dr. McIsaac and Mr. Griffin noted that there is no current TOR with criteria for proposals for changes to EFH. The last one was in 2008 for the interim review conducted by the EFHRC.

Mr. Sones asked Mr. Jones to the podium to clarify what the tribes were requesting. Mr. Jones said the idea is that this proposed committee would develop a TOR to set standards and criteria which would be used by the EFHRC in their request for proposed EFH changes and also set how they would be reviewed and judged by the EFHRC and Council.

Ms. Culver asked whether the creation of a new committee (Federal/state/tribal) is something we might task the SSC to do, as they usually develop a TOR. She wants to make sure we follow processes we currently have in place and is concerned with the perception that there might be a closed door session rather than an open transparent process.

Mr. Lockhart asked whether we have to make this motion right now. He would like to think through this proposal a bit more.

Dr. Hanson stated that the motion could be tabled until tomorrow or another meeting.

Mr. Lockhart moved and Ms. Vojkovich seconded a motion (Motion 9) to table Motion 8.

Mr. Lockhart said he needs to work this through a bit more with his staff. He understands the request for having a different process for a particular type of habitat. However, he does not know the implications and does not feel comfortable with making decisions until he has more time to talk with the tribes and the NWFSC on this.

[Council adjourned for the day]

[04/12/11; 8 a.m.]

Mr. Lockhart stated that NOAA will take time to set up a meeting with the states and tribes on this issue to discuss details, and come back to the Council with a more fleshed out proposal. At this point in time he is not thinking this would be at the very next meeting; this is a very long term process we are setting up here and he would like to act on tabling the motion.

Motion 9 carried unanimously.

Mr. Sones moved and Ms. Culver seconded a motion (Motion 10) to add a tribal representative to the EFHRC as described in draft COP 22, including the parameters of allowing an alternate designee as described in the COP 2. Motion 10 carried unanimously.

Ms. Culver moved and Mr. Lockhart seconded a motion (Motion 11) to adopt COP 22 as shown in Agenda Item I.3.a, Attachment 2, with the following changes: for page 1, item 1 under “Purpose” (the reference to areas closed to bottom trawling) and on page 2, item 1 under “Duties,” (references to areas closed to bottom contact fishing gear and further down “bottom trawling and bottom contact fishing gear”) – modify the language to say “bottom trawling or

other bottom contact fishing gear.” Page 3, strike out the reference to the original habitat technical review committee.

Mr. Moore supported the motion, but noted we are changing the direction of this committee by allowing it to generate its own proposal; that is the reversal of what was set up a long time ago. However, the GAP and EFHRC support the direction, so that is why he supports the motion.

Motion 11 carried unanimously.

Ms. Culver noted that in the original development of the groundfish EFH, the NWR carried the load with Geographic Information System (GIS), trawl tracks, and other expertise. Is NMFS planning to do a similar exercise for the EFHRC as they are requesting in Supplemental Attachment 4? Mr. Lockhart said they do not have the resources to do as was done before, but in many cases there is not a whole lot of new information available. The GIS files are there, and we need to put them in the mix. We have a contract with someone to start that process. Mr. Lockhart said he has started discussions with the NWFSC on this with the intent to make sure prior GIS data are available to the EFHRC, and they can work with the NWFSC and /or the contractor on this.

Ms. Culver said she was not comfortable with providing the EFHRC with raw data [on things like trawl tracks] due to confidentiality issues. The EFHRC should get aggregated data without releasing confidential information. Mr. Lockhart said they will pay close attention to assure that is the case, same as the last time.

Mr. Griffin requested the Council consider providing direction on the data request in Supplemental Attachment 4, which has not yet been distributed.

Ms. Culver moved and Ms. Lowman seconded a motion (Motion 12) as follows: relative to the data request in Supplemental Attachment 4, have NMFS take the lead for assembling the necessary data and work products [from their own sources or from the states where necessary] and supply it to the EFHRC displayed in an aggregate manner that protects data confidentiality.

Motion 12 carried unanimously.

#### **I.4 Informational Briefing on Risk Pools under the Trawl Rationalization Program**

##### **I.4.a Agenda Item Overview (04/12/11; 8:26 a.m.)**

Mr. Jim Seger provided the agenda item overview.

##### **I.4.b Open Presentation and Question Session**

Under this agenda item, groups developing risk pools were provided an opportunity to present the Council with an informational briefing on their activities. One of the groups (Mr. Merrick Burden, Mr. Joe Sullivan, Ms. Michelle Norvell, Mr. Chris Kubiak, and Mrs. Lynn Walton) accompanied their presentation with Agenda Item I.4.b, Supplemental Attachment 1 and Agenda Item I.4.b, Supplemental Informational Briefing PowerPoint.

This agenda item only provided an opportunity for a question and answer period between the Council members and the presenters, but no comments from the public or advisory bodies were taken. No decisions by the Council were scheduled under this agenda item. Refer to Agenda Item I.6 for Council action regarding risk pools.

## **I.5 Consideration of Inseason Adjustments – Part 1**

### **I.5.a Agenda Item Overview (04/12/11; 10:02 a.m.)**

Ms. Kelly Ames provided the agenda item overview.

### **I.5.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Dan Erickson summarized Agenda Item I.5.b, Supplemental GMT Report.

### **I.5.c Public Comment**

None.

### **I.5.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2011 Groundfish Fisheries (Part II on Wednesday, if needed)**

No Council action was necessary, and Agenda Item I.8 Consideration of Inseason Adjustments, Part II was cancelled.

## **I.6 Priority Trailing Actions under Trawl Rationalization and Intersector Allocation**

### **I.6.a Agenda Item Overview (04/12/11; 1:15 p.m.)**

Mr. Jim Seger and Mr. LB Boydston provided the agenda item overview (see Agenda Item I.6.a, Supplemental Council Staff PowerPoint).

### **I.6.b Reports and Comments of Advisory Bodies and Management Entities (3:00 p.m.)**

Mr. Barry Thom, Dr. John Stein, Mr. John Ferguson, and Ms. Vicki Nomura explained Agenda Item I.6.b, Supplemental NMFS Report 2.

[3:57 p.m.]

Mr. Lockhart provided Agenda Item I.6.b, Supplemental NMFS Cost Recovery PowerPoint. Ms. Ariel Jacobs and Ms. Jamie Goen, NMFS NWR, answered questions.

Mr. Dan Erickson read Agenda Item I.6.b, Supplemental GMT Report. Mr. Tommy Ancona read Agenda Item I.6.b, Supplemental GAP Report. Mr. Dayna Matthews read Agenda Item I.6.b, Supplemental EC Report.

**I.6.c Public Comment (04/12/11; 5 p.m.)**

Mr. Don Maruska, City of Morro Bay (Central Coast Community Quota Bank [CQB]), Morro Bay, CA  
Mr. Chris Kubiak, City of Morro Bay (CQB), Morro Bay, CA  
Mr. Jeremiah O'Brien, City of Morro Bay (CQB), Morro Bay, CA  
Mr. Rick Algert, City of Morro Bay (CQB), Morro Bay, CA  
Mr. Steve Scheiblauber, Harbormaster for City of Monterey, Monterey, CA  
Mr. Larry Collins, San Francisco Community Fishing Association, San Francisco, CA  
Mr. Zeke Grader, PCFFA, San Francisco, CA

[Council adjourned for the day until 8 a.m. on 04/13/11)

Mr. Ralph Brown, trawler, Brookings, OR  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Ms Donna Parker, Arctic Storm, Seattle, WA  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Tommy Ancona, Fishermen's Marketing Association, Fort Bragg, CA  
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR  
Mr. Tom Libby, Point Adams Packing Company, Hammond, OR  
Ms. Phoebe Higgins, California Fisheries Fund, San Francisco, CA  
Mr. John Bundy, Glacier Fish Company, Seattle, WA  
Mr. Mike Hyde, American Seafoods , Seattle, WA  
Ms. Lynn Walton, (representing a community fishery association), Seattle, WA  
Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA  
Mr. Joe Sullivan, Environmental Defense Fund, Seattle, WA  
Ms. Rosemary Hunter, trawler, Eureka, CA

**I.6.d Council Action: Guide Further Development of the Issues Concerning Cost Recovery, Safe Harbors from the Control Rule, the Adaptive Management Program Pass-Through and Amendment 6 v. Amendment 21 (10:26 a.m.)**

Ms. Culver stated that the adaptive management program quota pounds (QP) pass through options, as shown in Agenda Item I.6.a, Attachment 4, adequately captures the range of alternatives, based on the Council's previous guidance. Dr. Hanson noted that the options should reference implementation instead of development. There was concurrence on this point.

On Amendment 21 verses Amendment 6, Mr. Lockhart said that NMFS sees this as dealing with process issues, very straightforward and relatively simple to get done. Other set-aside issues, including flexibility, are potentially more complicated and the NMFS interest is that the issues be separated. If the first issue is put into the Program Improvements and Enhancements (PIE) rule, it could be done relatively quickly; this may not be possible if the other issue is added. In light of this comment there was discussion on how to move forward. The Council had already adopted the preliminary preferred alternative (PPA), therefore a final preferred alternative was scheduled for June, pending the completion of other work needed to support final action. If inclusion of the set-aside is likely to cause delay in resolving the Amendment 21 verses

Amendment 6 issue, then the Council can choose in June to sever the set-aside issue from this package.

Mr. Lockhart noted the need to pay for the program, whether that be through cost recovery, appropriations, or some combination of the two. We have to pay for NMFS and the states at a level the fishermen are able to afford. Mr. Moore strongly encouraged NMFS to develop a cost recovery program that parallels, or if possible is combined with, the fee system for recovering funds paid for the buyback program. Fishermen are used to the system, the processor is the collection agent, not the collection enforcer (NMFS enforces), it is done on a monthly basis, and it works out great. Mr. Myer concurred and thanked NMFS for providing the costs to the Council (Agenda Item I.6.b, Supplemental NMFS Report 2). He thought it would be good to start with the program tasks we are looking at, assign the tasks, identify the costs associated with those tasks, find out the real costs, sector by sector, and figure out how to pay for those costs.

In response to a question from Ms. Vojkovich, Mr. Lockhart stated that NMFS and Council staff would develop a range of options for the Council to review, including: an assessment of the costs of the program (he was hearing strongly that more detail is wanted), the costs split out to the extent possible by the sectors, what has the exvessel value been by sector, and possibilities on how to design the cost recovery program. The Council would select a PPA in June. If there are specific things the Council wants in the analysis, or specific options that it wants or does not want, that would be good guidance to receive.

With respect to the question of whether to combine the trawl rationalization cost recovery program with the cost recovery program for the limited entry fixed gear sector, Mr. Lockhart indicated that they had identified a number reasons for not proceeding in that fashion. Ms. Vojkovich commented on the difficulty of splitting out agency costs by specific tasks, for example, parsing out phone conversations and meetings to different tasks. She stated she would not expect NMFS to come back with that degree of detail.

Ms. Culver identified a variety of costs that Washington Department of Fish and Wildlife (WDFW) is incurring as a result of implementing the individual fishing quota (IFQ) program and stated that they would be providing that information for the June briefing book. Mr. Steve Williams concurred with the WDFW comments and approach as well. He supported Mr. Moore's comments on utilizing existing fee collection methods. In response to Ms. Vojkovich, Mr. Williams said he thought it would be possible to break costs down by sector and use some generalized budget planning procedures to provide a clearer picture than is provided in the report provided at this meeting. This would not be to the level that some would expect, but a clearer picture using some generalized accounting principles and percentages. Ms. Lowman noted that public understanding would be aided by descriptions of the program activities for which costs are being estimated. This might also help identify where program refinements could reduce costs.

On the issue of a safe harbor from control rules for lenders, Ms. Culver noted the comments provided by Phoebe Higgins, California Fisheries Fund, regarding some of the things that such institutions may need relative to verification of quota shares (QS) and other liens on that QS. That should be explored. Given what is in Agenda Item I.6.a, Attachment 3, and based on the comments and questions in testimony and uncertainty about definitions of bank and financial

institutions, there may be more work here than we would anticipate having ready for the June meeting.

After some further discussion it was agreed that Council selection of a PPA would be scheduled for the September meeting. Mr. Moore added that it would be helpful to have some definitions of financial institutions and banks, perhaps based on other Federal statutes and regulations, so we have an idea of what we are dealing with and where an exception may be needed. It is difficult to tell what NMFS will consider a bank or financial institution without having a set of definitions. Third-party identification for quota share holders, unique identifiers, and a lien registry should be included in the options the Council looks at, along with the straw dog alternative contained in Attachment 3.

Ms. Vojkovich requested a description of the function of a community fishing association (CFA) in relation to an individual in operating in the fishery and how the needs of a community might be different than that of the individual. This then leads to a discussion of whether there should be higher limits for some or all species.

Ms. Culver noted that there are arguments for higher accumulation limits for a broad spectrum of people and groups in the communities, and asked about justification for providing higher accumulation limits for CFAs. It is difficult to evaluate the CFA need in comparison to the individual need. In a cost-benefit analysis she would be looking for a demonstration or justification that granting an exemption for CFAs would benefit local communities and how CFAs would demonstrate that up front in their request for that exemption.

Mr. Lockhart asked that the rationales for the original accumulation limits be presented to the Council. In response to Ms. Culver's question, Mr. Seeger stated he believed the analysis would show that when fishermen in a community individually own QS and they go to sell, the chances are that they'll sell it to the highest bidder. Their individual interests are not going to reflect the interests of the processors, the fish ice plants, all the people who run the grocery stores, and everything else that benefits from that fish being landed in the community. On the other hand, presumably the CFA is going to take into account those overall benefits.

[1:58 p.m.]

Ms. Culver, spoke against the option that would set control limits for CFAs on a case-by-case basis at the Council level. She also asked that the rationale for considering CFAs that was presented in the 2009 documents be included in the EA document. Ms. Lowman indicated that she was not in support of the Council doing a case-by-case evaluation, rather that there be consideration of option structures that might create some different kinds of flexibility. The Council discussed Option C, which would provide an exception level on the basis of historical harvest or some other criteria. Ms. Culver indicated that it would be helpful if analysis provided some hypothetical and geographic breaks that could be used to evaluate the impacts of the options. She is advocating for options that include a limit (something along the lines of options A or B) and that the limits might vary by geographic area. She is not really looking for the removal of limits for the CFA's or establishing limits on a case-by-case basis at the Council level.

Mr. Crabbe asked, for the area south of 36° N. latitude, a cap of greater than 1.5 be considered. With respect to that southern area, sablefish optimum yield (OY) went way up, said Mr. Seger. It was agreed the CFA issue would move forward with options of 1.5 times and twice the accumulation limits, the option with no limits would be dropped, and Option C would be limits that might vary by geographic area based on data that would come out of the analysis.

With respect to risk pools, Ms. Vojkovich noted that the information needed for justification of CFA's might be similar to the information needed for justifying risk pools. Ms. Culver concurred and noted that there may be some differences in the justifications for the two; then a CFA's cost-benefit analysis would be needed for risk pools. She went on to ask for an option that includes halibut and one that does not. On the cost-benefit issue there should be a discussion on the potential cost of risk pools, how large they could potentially be, and how they could affect those not in risk pool. On the benefit side would be how they affect fishing behavior and how they could benefit those not in the risk pool.

Ms. Lowman noted that in testimony we heard the idea that “something more than a year and less than two years” might not be a violation of the control rule and might allow the risk pool to better achieve some of its goals. She asked for some discussion on these points for June.

Mr. Moore voiced his concurrence and asked for analysis of an option that did not include restrictions on delivery terms, along with the current provision that does include such a restriction. He did not believe the council should be involved in the contractual terms of what people do. He also noted the need to resolve the potential conflict which might occur if CFA agreements include terms which restrict the port of landing but the risk pool is not allowed to dictate the port of landing and there is an overlap between membership of the CFA and the risk pools.

Mr. Pollard posed a number of questions as to whether an entity could be a member of both the risk pool and the CFA, whether several CFAs could join together to be in a risk pool, and whether an entity could be a member of two risk pools. Mr. Seger said he can include that in the analysis for June. Ms. Culver advocated removing Option C on the enforcement and monitoring. Council members concurred. Ms. Lowman asked that an option for a holding account be added to the CFA alternative. The Council concurred.

There was discussion as to whether there was a clear threshold with respect to whether multiyear agreements for QP would implicate QS control rules. Ms. McCall indicated that there was not a clear threshold, but that the Council could perhaps, based on their upcoming analysis, establish criteria. Mr. Moore asked if his understanding is correct that if the Council generally defined what a risk pool is, and a risk pool of up to 14 months in duration would not violate the control rule, then there would be no need for an exemption for risk pools from control limits. Ms. McCall replied that in your example it would depend on the other specifics you are talking about. It was agreed that the analysis would include something for 12 months and less than two years.

## **I.7 General Groundfish Fishery and Trawl Rationalization Issues to be Addressed by the NMFS Program Improvements and Enhancement (PIE) Rule (Continues**

**Wednesday)**

**I.7.a Agenda Item Overview (04/13/11; 2:52 p.m.)**

Mr. Seger provided the agenda item overview.

**I.7.b Reports and Comments of Advisory Bodies and Management Entities**

Ms. Jamie Goen presented Agenda Item I.7.b, Supplemental NMFS PowerPoint. Agenda Item I.7.b, Supplemental GMT Report was read by Ms. Joanna Grebel and Mr. Dan Erickson. Mr. Tommy Ancona read Agenda Item I.7.b, Supplemental GAP Report. Mr. Dayna Matthews read Agenda Item I.7.b, Supplemental EC Report.

**I.7.c Public Comment**

Mr. John Gauvin, Alaska Seafood Cooperative, Seattle, WA  
Mr. Tom Libby, Point Adams Packing Company, Hammond, OR

**I.7.d Council Action: Review and Provide Direction Regarding Emerging Issues and the NMFS PIE Rule (04/13/11; 4:37 p.m.)**

Mr. Lockhart indicated that they would continue to work on the PIE rule and work with outside individuals on some of these issues.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 18) that NMFS move forward with further development of the PIE rule and the issues described in Agenda Item I.6.b, Supplemental NMFS Report 2, taking into account the comments expressed in GMT, GAP and EC reports, and public comment that we just received; relative to the trailing action calendar in Attachment 1, this would come back to the Council in June while item 4c, lenders, would come back to the Council in September. Ms. Culver noted that changes to the schedule are consistent with the actions under Agenda Item I.6.

Motion 18 carried unanimously.

Ms. Kirchner moved and Mr. Moore seconded a motion (Motion 19) that the Council recommend NMFS add language to the PIE rule allowing a vessel operating under a limited entry trawl permit that has legally processed groundfish (other than Pacific whiting) at sea prior to July 20, 2010, be allowed to process at sea beginning January 1, 2012. To qualify, a permit holder must verify that the activity occurred prior to July 20, 2010 using fish tickets, dock receiving tickets, landing receipts, or other official documents, and that the vessel is operating under the Shorebased IFQ Program regardless of the type of gear used. Regulatory language should also include an appropriate conversion factor and/or an appropriate process for calculating a conversion factor for glazed groundfish.

Speaking to the motion, Ms. Kirchner stated that prior to the rationalization program it was legal for non-whiting limited entry vessels to glaze their groundfish at sea and that's defined as processing in the regulations. We prohibited that through the trawl rationalization program in



the deeming process that happened last year and at that time the Council was not aware that anyone was conducting the activity. Since then the Council has become aware of an individual who did process groundfish at sea in 2010. This person made a substantial investment to purchase the equipment, put it on board and conduct the activity as well as putting substantial time into developing the market for this product. We tracked down the landings. Five deliveries were made during 2010 and the value of those landings were enhanced by up to \$6,000 per trip due to the processing of the product. This issue fits into this rule in a couple of ways, as noted in the GMT statement. It may not have been the Council's intent to negatively impact the existing operation. Would the Council have made the same recommendation had they known that this operation was occurring? Or would they have provided a limited exception such as was done in the Amendment 14 process where at-sea processing of sablefish caught in the limited entry fixed gear primary fishery was prohibited with the exception to accommodate an existing operation. Additionally it is the stated goal of this rulemaking process to address implementation issues, which this certainly is one, and the goal of the program in general is to provide opportunities to make this fishery more flexible and efficient.

Ms. Culver asked whether it was her intent that by allowing this activity that the permission to do so would be nontransferable and could not be sold or traded and that it is only to the individual in this allowance and would expire when that individual is gone. Ms. Kirchner said that it was. Mr. Meyer expressed concern about creating an exception that might likely apply to only one individual. Mr. Lockhart noted that the criteria could apply to anyone, even if not known at this time. We believe that there is only one person who meets the criteria.

Ms. Culver stated the state's concern about large volumes of at-sea processing occurring without their knowledge, given that they would not necessarily receive fish tickets for that activity. They had these concerns in relation to the potential threat of at-sea processing of spiny dogfish. However having a value-added product is a goal of the FMP. Substantial investments in processing had occurred when this activity was legal. If in the future others should want to follow suit through glazing or at-sea processing, that would be worthy of Council consideration on a smaller scale, but those individuals would come forward at that time without first making their investments. On that basis she supported the motion.

Motion 19 carried unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 20) to specify the composition and duties of the proposed ad hoc Trawl Rationalization Regulatory Review Committee (TRREC) as follows:

Committee Name: Trawl Rationalization Regulatory Evaluation Committee (TRREC)

Objective: Use expertise of selected individuals with knowledge of the operational aspects and regulations for the groundfish fishery to assist the Council by developing recommendations for regulatory changes to address specific regulatory issues identified by the Council and assigned to the TRREC.

Duties:

Specifically, the TRREC:

- Will identify and discuss specific regulatory changes in an effort to resolve issues identified by the Council.
- Shall not address policy or allocation issues that have not been specifically assigned by the Council.
- New regulatory issues arising through TRREC discussions (as identified by TRREC members or the public) should be noted and summarized by Council staff at the end of TRREC reports. Such regulatory issues could be reviewed and vetted through the Council advisory bodies at a future Council meeting.
- It is anticipated that the majority of the issues addressed by the TRREC will be relative to the shoreside sector. Individuals (e.g., observer provider, LE fixed gear) or groups (e.g., at-sea whiting) may be added to the TRREC to address specific issues, as needed.

Proposed Candidate Seats for Primary Group (Shoreside):

- 3 Shoreside Non-whiting Catcher Vessels (1 from each state: WA, OR, CA)
- 1 Shoreside Whiting Catcher Vessel
- 1 Shoreside Non-whiting Processor
- 1 Shoreside Whiting Processor

Agency Representatives:

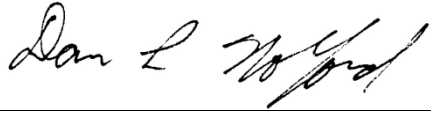
Agencies should have the appropriate representatives available at the meetings to participate in the discussions and comment on proposed regulatory changes, including staff from NMFS OLE, NMFS NW Region, NOAA General Counsel, and PSMFC. Additionally, the Council would cover travel expenses for one representative from each state to attend the TRREC meetings.

The intent of the second bullet is that they would not address policy or allocation issues that had not been assigned specifically by the Council, but it is understood that new regulatory issues might arise through the discussions and there would be some grey lines there. Mr. Seger stated his understanding that through this action the Council had created the TRREC, which is only to work on things that had been assigned to it, and that at this time the Council has not made any assignments to the group. He received confirmation that this understanding was correct.

Motion 20 carried unanimously.

**ADJOURN**

The Council adjourned April 13, 2011 at 6:45 p.m.



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Dan Wolford  
Council Chairman

March 7, 2012

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Date