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A. Call to Order

A.1 Opening Remarks (9/14/2012; 10:01 a.m.)

Mr. Dan Wolford, Chairman, called the 215th meeting of the Pacific Fishery Management Council (Council) to order at 10:01 a.m. on Friday, September 14, 2012. He reported that a closed session is scheduled to immediately follow the conclusion of regular business this afternoon to discuss litigation and personnel matters.

Dr. McIsaac introduced Mr. Jim Smith, U.S. Fish & Wildlife Service (USFWS), who is substituting for Mr. Tim Roth at this meeting.

A.2 Roll Call

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

Mr. William L. “Buzz” Brizendine (At-Large)
LCDR Brian Chambers (U.S. Coast Guard (USCG), non-voting, designee)
Mr. David Crabbe (California Obligatory)
Ms. Michele Culver (Washington State Official, designee)
Mr. Jeff Feldner (At-Large)
Mr. Cal Groen (Idaho State Official, designee)
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)
Mr. Rich Lincoln (Washington Obligatory)
Mr. Frank Lockhart (National Marine Fisheries Service (NMFS), Northwest Region, designee)
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)
Mr. Dale Myer (At-Large)
Mr. Herb Pollard (Idaho Obligatory)
Mr. Jim Smith (USFWS, non-voting designee)
Mr. David Sones (Tribal Obligatory)
Ms. Marija Vojkovich (California State Official, designee)
Mr. Gordon Williams (Alaska State Official, non-voting designee)
Mr. Steve Williams (Oregon State Official, designee)
Mr. Dan Wolford, Chairman (At-Large)

During the week, the following people were present in their designated seats for portions of the meeting:

Mr. Phil Anderson (Washington State Official); Mr. Brian Corrigan (USCG, non-voting designee); Ms. Joanna Grebel (California State Official, designee); Mr. Mark Helvey (NMFS, Southwest Region, designee); Mr. David Ortmann (Idaho State Official, designee); LCDR Brad Soule (USCG, non-voting designee); Mr. Bob Turner (NMFS, Northwest Region, designee); and Ms. Marci Yaremko (California State Official, designee).

During the week the following people were absent from the meeting:

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Mr. Dave Hogan (U.S. State Department, non-voting) and Mr. Tim Roth (U.S. Fish and Wildlife Service, non-voting designee)

A.3 Executive Director’s Report

Dr. Donald McIsaac expressed his thanks to the Council staff for preparation of the September Council Meeting, and informed the Council of the transitional changes resulting from the retirement of Dr. John Coon as of August 31, 2012, including information contained in a memorandum previously given to Council members.

Mr. Dan Wolford reported on a coastal marine spatial planning meeting he attended and noted that information regarding the meeting was detailed in the following attachments:

Agenda Item A.3, Supplemental WCGA Update.
Agenda Item A.3, Supplemental Attachment 1: Questions from the WCGA on Ocean Health to the NOC Relative to CMSP et al.
Agenda Item A.3, Supplemental Attachment 2: WCGA Grant Obligations.
Agenda Item A.3, Supplemental Attachment 3: NROC Relationship with the NE Regional Planning Body.
Agenda Item A.3, Supplemental Attachment 4: Addressing Capacity and Organization of WCGA Action Coordination Teams.

Dr. McIsaac introduced Council members to the following Informational Reports:

Informational Report 1: Final Memorandum of Understanding between NMFS and USFWS to Promote the Conservation of Migratory Bird Populations.
Informational Report 2: Call for Papers: Predator and Forage Fish Dynamics in Eastern Boundary, Especially the California Currents.

Dr. McIsaac remarked on the Idaho Department of Fish & Game (IDFG) field trip on salmon research and restoration practices. Further information will be given during the week, and deep appreciation was expressed to the IDFG staff. Mr. Pollard presented information regarding the planned field trip to the conservation hatchery in Eagle on Monday evening for members who would like to attend.

Dr. McIsaac informed the Council that Dr. Paul Doremus, National Oceanic and Atmospheric Administration (NOAA) Deputy Assistant Administrator for Operations; will provide information regarding the funding of the Council in FY 2013 on Saturday morning. Dr. McIsaac provided information regarding the Managing Our Nation’s Fisheries Conference 3 next May. He noted that additional information will be given in November with more detail. He also provided information regarding Mr. Will Stelle’s visit to the Council this afternoon for Agenda Item H.7, Reconsideration of Initial Catch Share Allocations in the Mothership and Shoreside Pacific Whiting Fisheries. He proposed that when Mr. Stelle arrives this afternoon, the Council take a break and then move immediately into closed session. Lastly, regarding Agenda Item D.1,
Current Habitat Matters, there is a proposal from Monterey Bay National Marine Sanctuary for changing the sanctuary boundaries with a comment deadline prior to the next Council meeting. Since the Groundfish Advisory Subpanel (GAP) is not convening until after that agenda item, following the report of the Habitat Committee, the Council should suspend the remainder of the agenda item until Tuesday morning when they would consider advisory body comments and Council action.

A.4 Agenda

A.4.a Council Action: Approve Agenda

Mr. David Crabbe moved and Ms. Marija Vojkovich seconded Motion 1 to adopt the agenda as shown in Agenda Item A.4, Proposed Detailed Agenda (September 13-18, 2012) with the proposed changes given by Dr. McIsaac for: Agenda Item D.1, Habitat Issues; Closed Session; and the Saturday morning informational briefing by Dr. Paul Doremus.

B. Enforcement Issues

B.1 Current Enforcement Issues (9/14/2012; 10:28 a.m.)

B.1.a Agenda Item Overview

Mr. Jim Seger provided the Agenda Item Overview.

B.1.b Tri-State Enforcement Report


B.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

B.1.d Public Comment

None.

B.1.e Council Action: Discussion and Guidance, as Needed (9/14/2012; 11:36 a.m.)

Ms. Vojkovich said the presentation provides information that indicates we can’t keep doing what we are doing without the JEA funding and Council member support for the JEA funding for the protection of the resource.

Ms. Lowman stated her appreciation for DC Cenci’s and the EC’s dedication to the Council process and regulations, and for their crucial role in the management of the fisheries.

Dr. McIsaac expressed his thoughts on the importance of the EC in the Council process and the need to diligently assist in the funding process for important law enforcement programs.
C. Highly Migratory Species Management

C.1 National Marine Fisheries Service Report (9/14/2012; 12:47 p.m.)

C.1.a Agenda Item Overview

Dr. Kit Dahl provided the Agenda Item Overview and introduced Agenda Item C.1.a, Attachment 1: Northern Committee of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, Eighth Regular Session, Provisional Annotated Agenda.

C.1.b Regulatory Activities

Mr. Mark Helvey presented:
Agenda Item C.1.b, Supplemental NMFS Report 2: Report on the Results of 8th Regular Session of the Northern Committee (NC), September 3-6, 2012.

C.1.c Fisheries Science Center Activities

Mr. Cisco Werner presented:
Agenda Item C.1.c, Supplemental SWFSC PowerPoint.
Agenda Item C.1.c, Attachment 1: Report of the Twelfth Meeting of the International Scientific Committee (ISC) for Tuna and Tuna-like Species in the North Pacific Ocean Plenary Session.

C.1.d Reports and Comments of Advisory Bodies and Management Entities

None.

C.1.e Public Comment

Agenda Item C.1.e, Public Comment.
Agenda Item C.1.e, Supplemental Public Comment 2: Letters from American Albacore Fishing association regarding U.S. Canada Albacore Treaty.

There was no oral public comment.

C.1.f Council Discussion

Ms. Vojkovich recommended that the Highly Migratory Species Advisory Subpanel (HMSAS) and Highly Migratory Species Management Team (HMSMT) provide early input for developing Council positions on the international management of HMS, particularly in relation to the precautionary management framework for North Pacific albacore being developed by the Western and Central Pacific Fisheries Commission (WCPFC) Northern Committee. Early input to U.S. delegations to the WCPFC and Inter-American Tropical Tuna Commission (IATTC) will increase the success of Council recommendations being considered and incorporated into the positions put forward by U.S. delegations. She noted that for the WCPFC, the International Council Meeting Minutes September 2012 (215th Meeting)
Fisheries Division within NMFS Pacific Island Regional Office plays a lead role, and the Council needs the means to have effective interaction with them including the review of positions put forward by other member countries. In conclusion, even though Regional Fishery Management Organization meetings are far removed from the Council forum, it is important for the Council to pay close attention to their activities.

Mr. Steve Williams expressed the hope that the U.S. is moving forward with negotiations with respect to the U.S.-Canada Albacore Treaty. He emphasized the need to begin negotiations sooner rather than later so that some agreement is reached before the 2013 fishing season. Mr. Helvey agreed with Mr. Williams' recommendation.

Echoing Ms. Vojkovich's comments, Mr. Helvey noted that albacore comprises the largest HMS fishery on the west coast. North Pacific albacore is a pan-Pacific stock, so both the WCPFC and IATTC play a role in management. While the WCPFC is ahead of the IATTC in terms of developing a precautionary management framework, it is likely the IATTC will engage in North Pacific albacore management. The Council needs to keep abreast of these developments and take an active role in developing recommendations.

[Council concluded this agenda item at 1:41 p.m. and commenced Closed Executive Session to discuss litigation and personnel matters.]

D. Habitat

D.1 Current Habitat Issues (9/14/2012; 4:04 p.m.)

D.1.a Agenda Item Overview

Ms. Jennifer Gilden provided the Agenda Item Overview and presented the following attachments pertaining to this agenda item:
Agenda Item D.1.a, Attachment 1: Council letter to the Secretary of the Interior.
Agenda Item D.1.a, Attachment 2: Reply from Donald Glaser, Bureau of Reclamation.

D.1.b Report of the Habitat Committee

Ms. Fran Recht presented Agenda Item D.1.b, Supplemental Habitat Committee Report.

[Council suspended this agenda item at 4:10 p.m. until Tuesday morning for further consideration by advisory bodies.]

D.1.c Reports and Comments of Advisory Bodies and Management Entities (9/18/2012; 8:11 a.m.)

Mr. Chuck Tracy read Agenda Item D.1.c, Supplemental SAS Report and summarized the Habitat Committee (HC) Report for the Council.

D.1.d Public Comments

None.
D.1.e Council Action: Consider Habitat Committee Recommendations

Ms. Lowman recommended Council staff forward the comments of the HC (Agenda Item D.1.b, Supplemental Habitat Committee Report) to the Gulf of Farallones National Marine Sanctuary regarding a boundary adjustment in the Monterey Bay National Marine Sanctuary. The Council concurred.

[Council concluded this agenda item at 8:13 a.m.]

E. Salmon Management

E.1 California Hatchery Review Report (9/14/2012; 4:11 p.m.)

E.1.a Agenda Item Overview

Dr. Donald McIsaac provided the Agenda Item Overview and introduced the following introductory attachments:
Agenda Item E.1.a, Attachment 1: News Release.

E.1.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Mike O’Farrell presented Agenda Item E.1.b, Supplemental STT Report.
Mr. Mike Orcutt presented Agenda Item E.1.b, Supplemental SAS Report.
Ms. Fran Recht presented Agenda Item E.1.b, Supplemental HC Report.

E.1.c Public Comment

Agenda Item E.1.c, Supplemental Public Comment.

No oral comment was provided.

E.1.d Council Discussion and Guidance (9/14/2012; 5:01 p.m.)

Mr. Ortmann asked what the next steps in the hatchery review process were. Mr. Smith replied that there were no implementation steps in the report; however, the policy committee recommendations in Appendix 7 included reconvening as necessary to oversee implementation by affected agencies, providing regular reviews, and issuing progress reports.

Mr. Steve Williams asked if there was any public comment opportunity during the hatchery review process. Mr. Smith replied no, that agencies were consulted, but the HSRG wanted to maintain their independence.

Mr. Lincoln asked what steps NMFS would take to implement the recommendations in the report. Mr. Turner replied that the next steps would likely be similar to those followed in the
Columbia Basin and Puget Sound, where hatchery genetic management plans followed using the hatchery review document as best available science, but not the only science.

Mr. Wolford asked if mitigation agreements were considered in the review, including downstream effects on remaining accessible habitat. Mr. Turner replied that developers needed to address both mitigation obligations and Endangered Species Act (ESA) consultation standards, which often require compromises.

Mr. Wolford noted that recommendations on trucking smolts was based strictly on biological criteria and asked why socio-economic criteria were not considered. Mr. Turner replied the HSRG acknowledged that socio-economic effects were not considered in the report, but were primarily concerned with reversing the adverse effects of hatchery fish on natural populations.

Mr. Wolford asked if one-on-one mating was intended to mimic natural spawning behavior. Mr. Smith replied, not strictly, it was intended to preserve genetic diversity and reduce the effects of past practices of five-on-five mating where one male typically dominated fertilization.

Mr. Wolford asked if the expense of implementing the report recommendations was considered. Mr. Anderson noted that in the Pacific Northwest the HSRG reports contained over 1,200 recommendations; the first 600 or so were relatively inexpensive, the next 600 were either too expensive, impractical, or co-managers could not reach consensus.

Mr. Pollard suggested the report recommendations should be prioritized to increase fishery stability by decreasing hatchery genetic homogenization.

Ms. Vojkovich noted that implementation teams were being assembled.

Dr. McIsaac stated that Council staff would forward the recommendations to implementation agencies for further consideration.

[Council concluded the day’s business on 9/14/2012 at 5:36 p.m.]

[Council reconvened at 8:04 a.m. on 9/15/12 and proceeded with opening comments and an informational briefing by Dr. Paul Doremus; NOAA Fisheries Deputy Assistant Administrator for Operations.]

E.2 2012 Salmon Methodology Review (9/15/2012; 8:37 a.m.)

E.2.a Agenda Item Overview

Mr. Chuck Tracy provided the Agenda Item Overview and introduced Agenda Item E.2.a, Attachment 1: Email to the Agencies from Chuck Tracy dated June 19, 2012.
E.2.b Reports and Comments of Advisory Bodies and Management Entities

Mr. David Sones presented Agenda Item E.2.b, Supplemental NWIFC Report: Comparison of Two Methods for Estimating Coho Salmon Encounters and Release Mortalities in the Ocean Mark-Selective Fishery.

Mr. Steve Williams spoke to Agenda Item E.2.b, Supplemental ODFW Report: Request for SSC and STT Review of Proposed Changes to the A13/OCN Workgroup Coho Marine Survival Index.

Mr. Larrie Lavoy presented Agenda Item E.2.b, Supplemental MEW Report.

Dr. Robert Kope presented Agenda Item E.2.b, Supplemental STT Report.

Dr. Owen Hamel presented Agenda Item E.2.b, Supplemental SSC Report.

Mr. Butch Smith presented Agenda Item E.2.b, Supplemental SAS Report.

Mr. David Sones presented Agenda Item E.2.b, Supplemental Tribal Comments: Salmon Methodology Review.

E.2.c Public Comment

None.


Mr. Steve Williams moved (Motion 2) to adopt the five review topics as found in Agenda Item E.2.b, Supplemental STT Report for the 2012 methodology review. Mr. Anderson seconded the motion.

Motion 2 carried unanimously.

Mr. Wolford recommended continued work on the Sacramento winter-run Chinook control rule topic.

Mr. Feldner recommended the NMFS Southwest Fisheries Science Center (SWFSC) and Southwest Region (SWR) continue work on the feasibility of an abundance-based management approach for California Coastal Chinook. Mr. Turner and Ms. Vojkovich replied that their respective agencies were cooperating toward that objective.

E.3 Salmon Fishery Management Plan (FMP) Amendment 17 – Annual Regulatory Cycle and Minor Updates (9/15/2012; 9:45 a.m.)

E.3.a Agenda Item Overview

Mr. Chuck Tracy provided the Agenda Item Overview.

Ms. Peggy Mundy presented Agenda Item E.3.a, Attachment 1: Pacific Coast Salmon Fishery Management Plan Amendment 17: Annual Regulatory Cycle and Minor Updates.

E.3.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Robert Kope presented Agenda Item E.3.b, Supplemental STT Report.
Mr. Wolford asked how the change in the regulatory cycle would affect early season fisheries. Dr. Kope replied that those fisheries would proceed under the previous year’s regulations and be managed with inseason actions if new information suggested the need. Mr. Turner asked if the Canadian forecast information could be obtained earlier to meet some of the objectives of changing the regulatory cycle. Dr. Kope replied probably.

Mr. Butch Smith presented Agenda Item E.3.b, Supplemental SAS Report.

Mr. Phil Anderson reported that the Washington Department of Fish and Wildlife (WDFW) cycle for establishing and publishing regulations would be difficult to revise, and noted Washington would not support Issue 13 at this time. He offered to work toward getting the Canadian forecast information sooner to facilitate the public hearings on ocean salmon alternatives and the North of Falcon negotiations. Mr. Steve Williams stated that the Oregon Department of Fish and Wildlife (ODFW) position was similar to the WDFW position. Mr. David Sones noted that the Canadians had been pressured since the 1980s with little success, and suggested approaching them through other channels such as the State Department.

Mr. Turner stated NMFS was willing to defer to the WDFW and ODFW positions on Issue 13, but noted that the regulatory cycle change would also benefit NMFS by providing more time to complete the process of filing the regulations prior to the start of the cycle.

E.3.c Public Comment
None.

E.3.d Council Action: Adopt Final Recommendations for Modifying the Annual Regulatory Cycle and Other Minor FMP Changes (9/15/2012; 10:20 a.m.)

Mr. Anderson moved (Motion 3) that the Council adopt the final recommendations for the Pacific Coast Salmon Amendment 17 as represented in Agenda Item E.3.a, Attachment 1, including the remarks and edits heard in deliberation, but excluding Issue 13. Ms. Yaremko seconded the motion.

Mr. Anderson said the changes in Amendment 17 will help align the Fishery Management Plan with current practices.

Motion 3 carried unanimously.

E.4 FMP Amendment 18 – Update of Essential Fish Habitat (EFH) for Salmon (9/15/2012; 10:26 a.m.)

E.4.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview. He noted that the EFH Amendment was re-numbered as FMP Amendment 18.
E.4.b Summary of the Pacific Coast Salmon Scoping Document

Mr. Kerry Griffin and Dr. John Stadler presented Agenda Item E.4.a, Attachment 1: Pacific Coast Salmon Plan Amendment 18 Draft Preliminary Alternative and Agenda Item E.4.a, Supplemental Attachment 2: Table 1 Replacement.

Members of the Council asked several questions during the presentation, including questions about: the 17 hydrologic units that will no longer have Chinook EFH because Amendment 16 removed Mid-Columbia River fall Chinook from the FMP; the newly-merged hydrologic units in California; whether the Farrallon Islands contain freshwater EFH (they do not); HU 18060006 which is proposed for removal as EFH; salmon in the Upper Willamette system; the difference between ESA and EFH protections; Puget Sound pink salmon presence and distribution; whether thermal refugia can be mapped (yes, in some cases); and the potential adverse effects from fishing and non-fishing activities.

Ms. Vojkovich asked why Chinook salmon marine EFH only extends south to Point Conception. Mr. Griffin stated that although there is some presence of Chinook salmon in the marine waters south of Point Conception, Chinook presence is sparse and not persistent. In addition, it is not clear that those marine waters south of Point Conception meet the definition of EFH.

[Council break from 11:59 a.m. until 1:10 p.m.]

E.4.c Reports and Comments of Advisory Bodies and Management Entities (9/15/2012; 1:10 p.m.)

Mr. Bob Turner presented Agenda Item E.4.c, Supplemental NMFS Report.
Dr. Owen Hamel presented Agenda Item E.4.c, Supplemental SSC Report.
Mr. Butch Smith presented Agenda Item E.4.c, Supplemental SAS Report.
Mr. Kerry Griffin read Agenda Item E.4.c, Supplemental HC Report into the record.

E.4.d Public Comment

None.

E.4.e Council Action: Adopt Alternatives for Updating Salmon EFH for Public Review (9/15/2012; 1:31 p.m.)

Mr. Griffin suggested that the Table 1 replacement (Agenda Item E.4.a, Supplemental Attachment 2) containing the alternatives could be used as a template for Council action.

Mr. Turner moved and Mr. Lincoln seconded Motion 4 to adopt for further analysis all alternatives in Table 1 Replacement (Agenda Item E.4.a, Supplemental Attachment 2), including the no action alternative, but with the exclusion of 5C, and also include the language from Agenda Item E.4.c, Supplemental NMFS Report, which contains alternatives 12A & 12 B.

Mr. Anderson moved and Mr. Steve Williams seconded to amend (Amendment 1) the motion by modifying the main motion to be consistent with the Scientific and Statistical Committee (SSC) recommendations in Agenda Item E.4.c, Supplemental SSC Report, and consistent with the Council Meeting Minutes

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revision recommended by the HC relative to the provision for pile driving in 10C1 (Agenda item E.4.c, Supplemental HC Report), and adding “coal export terminal activities” to Alternative 10C as an additional activity.

Mr. Anderson spoke to his amendment, stating that it would also eliminate from further analysis Alternatives 4D & 4E on Puget Sound pink salmon. He said that the data on presence of pink salmon in the Queets-Quinault and the Hoko-Crescent watersheds show only occasional presence. Mr. Sones stated that the tribes also supported removing 4D and 4E from further consideration, based on lack of evidence that there are any persistent populations of Puget Sound pink salmon. Mr. Anderson suggested that the term “salmon gear” could be described more accurately.

Mr. Anderson clarified that his motion was consistent with the SSC recommendations and does support removing alternative 10C10 from further consideration.

Mr. S. Williams moved and Mr. Feldner seconded a motion (Amendment 1a) to include the following language proposed in Agenda Item E.4.c, Supplemental HC Report, to replace “salmon fishing gear” with “fishing gear” (Alternative 9) in Section 8.

Mr. Williams said using a generic description for fishing gear would give clarity and consistency to the document.

Amendment 1a to Amendment 1 passed unanimously.

Dr. McIsaac asked whether the motion included consideration of the no action alternatives. Mr. Anderson clarified that he intended for the no action alternatives to be included for analysis.

Mr. Feldner asked for further development for the off channel refugia, though he could not think of language to add regarding off channel refugia and holding areas. He suggested for the record that he would like to see that covered under Information and Research Needs, and perhaps could be addressed in the future, utilizing a new process outlined in Alternative 12B.

Amendment 1, as amended, carried unanimously.

Mr. Wolford asked whether the freshwater in the Farallon Islands would be considered salmon EFH, because the map in the report shows it as being EFH. Mr. Griffin said that since there are no freshwater salmon-bearing streams, EFH would only apply to the marine and estuary habitat.

Motion 4, as amended, carried unanimously.

Mr. Lincoln suggested providing guidance regarding the exclusion of some of the mid-Columbia Chinook stocks, and that the lower portion of some of those watersheds may be EFH as temperature refuge areas that are documented. He suggested that in the analysis of the alternatives, the potential impacts of excluding those areas be fully analyzed and provided to the Council before a decision is made. (Staff Officer’s note: This issue is germane to the fact that
although some watersheds that are tributaries of the Columbia have lost status as EFH, as salmon migrate up the mainstem Columbia, they may depend on the lower reaches of those watersheds as refugia. Therefore, the Council could benefit from a full analysis of the effects of including or not including those and off-channel habitats of the Mid-Columbia River as EFH.

[Council concluded this agenda item at 2:04 p.m. on 9/15/2012]

**E.5 Lower Columbia Endangered Species Act Salmon and Steelhead Recovery Plan (9/15/2012; 2:15 p.m.)**

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

Mr. Chuck Tracy provided the Agenda Item Overview and introduced the following attachments:

Agenda Item E.5.a, Attachment 1: Fact Sheet on Proposed Lower Columbia Recovery Plan.
Agenda Item E.5.a, Attachment 2: Executive Summary from Proposed Lower Columbia Recovery Plan.
Agenda Item E.5.a, Attachment 4: Letter from Will Stelle Regarding Extension of Public Comment Period on the Proposed ESA Recovery Plan for LCR Coho Salmon.

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

Ms. Patty Dornbusch presented Agenda Item E.5.b, Supplemental NMFS PowerPoint: Overview of Proposed ESA Recovery Plan.
Mr. Butch Smith and Ms. Irene Martin presented Agenda Item E.5.b, Supplemental SAS Report.
Mr. Chuck Tracy read Agenda Item E.5.b, Supplemental HC Report into the record.

**E.5.c Public Comment**

None.

**E.5.d Council Action: Review and Provide Guidance (9/15/2012; 2:51 p.m.)**

Mr. Anderson asked for a reaction to the Salmon Advisory Subpanel (SAS) statement. Ms. Dornbusch replied a proper response would require more thought, but that she recognized the need to clearly communicate the harvest-related message throughout the recovery plan; however, the recovery plan does commit to maintain harvest opportunities on hatchery fish during the recovery period, and supports eventual harvest on recovered natural populations. Recovery actions in other sectors such as habitat restoration had occurred, but understanding the timing of the effects of those actions may require additional life cycle modeling.

Mr. Anderson noted the need to ensure the recovery plan fairly represented the role of all sectors in the decline and recovery of the listed stocks, and to not implicate one sector over the others.
Mr. Wolford asked what measures in the recovery plan address ensuring mitigation debts are honored. Ms. Dornbusch replied the recovery plan does not address mitigation debt and noted that the plan is voluntary, not regulatory, but that it did establish benchmarks for each population as well as benchmarks for reducing threats from various sectors, including habitat loss that mitigation agreements were intended to address. Mr. Turner added that the Mitchell Act is not technically a mitigation agreement, and is subject to Congressional appropriations. Agreements with local utility districts in some Lower Columbia River tributaries represent a separate mitigation debt, but are not applicable to the Lower Columbia River. Therefore, there is no typical mitigation debt to be addressed in the Lower Columbia River.

Dr. McIsaac asked if the recovery plan included specific or general fishery targets. Ms. Dornbusch replied the analysis by Oregon and Washington did not have any specific fishery targets but did make some assumptions about harvest rates for long-term recovery modeling that were considered feasible and consistent with recovery.

Mr. Pollard asked if the recovery plan addressed avian predation in the estuary and had an objective to reduce it to levels at the time of listing. Ms. Dornbusch replied that avian and fish predation were considered as a single threat, but the plan did not identify a need to reduce avian predation to those levels in order to achieve recovery goals. However, extensive efforts were being taken to address avian predation. Mr. Pollard felt that predation was as important as harvest and habitat in terms of recovery.

Ms. Lowman asked if the consensus has been captured and could be forwarded to NMFS in a letter. The Council concurred.

F. Pacific Halibut Management

F.1 Pacific Halibut Management South of Humbug Mountain (9/15/2012; 3:22 p.m.)

F.1.a Agenda Item Overview

Mr. Chuck Tracy provided the Agenda Item Overview.

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

Mr. Chuck Tracy presented Agenda Item F.1.b, Supplemental SHPHW PowerPoint and Agenda Item F.1.b, Attachment 1: Ad Hoc South of Humbug Pacific Halibut Workgroup (SHPHW) Report on Biological, Monitoring, Assessment, and Apportionment Issues in Area 2A.

Ms. Yaremko asked what the rationale was for wanting to use only trawl gear from the observer data on halibut bycatch. Mr. Tracy replied that the combination of trawl and fixed gear would not provide consistent trends because the fisheries operated differently from year to year, such as allowing retention of halibut some years in the fixed gear fishery north of Pt. Chehalis and requiring discard in other years.
Ms. Yaremko asked if the SHPHW recognized the reduction in trawl effort off California in recent years. Mr. Tracy replied yes, that there are frequently issues with fishery-dependant data, and that is one reason for requesting the trawl survey data as well.

Ms. Culver recommended filtering the observer data both by gear and geographically so the fixed gear data could be used.

Mr. Wolford asked if the SHPHW considered landings data from earlier years. Mr. Tracy replied no, the recreational fishery data was suspect prior to 2004.

Ms. Yaremko presented Agenda Item F.1.b, CFGC Letter: California Fish and Game Commission Letter to IPHC, NMFS, and PFMC.

Mr. John Holloway presented Agenda Item F.1.b, Supplemental GAP Report.

Dr. Bruce Leaman discussed Agenda Item F.1.b, IPHC Letter: International Pacific Halibut Commission (IPHC) Letter responding to CFGC Letter. He noted that expanding the International Pacific Halibut Commission (IPHC) survey into California waters may have unanticipated effects by reducing the average Area 2A halibut density, and thereby reducing the overall estimated abundance for Area 2A. The IPHC does not currently have resources to expand the survey, but it is important to incorporate an appropriate area in California into the coastwide assessment, primarily to estimate habitat availability.

Ms. Yaremko asked why the IPHC considered use of catch per unit of effort important for the assessment model now, but in the past had stopped its use. Dr. Leaman replied that in the 1980s the survey and the assessment model agreed, but when the growth rate changed, the survey was reinstituted to track recruitment by age.

Mr. Steve Williams asked if the IPHC was willing to allow the Council the flexibility to assess potential solutions to the harvest issues south of Humbug Mountain with the objective of making potential management changes in 2014. Dr. Leaman replied that the IPHC was willing to support the process the Council proposed.

F.1.c Public Comment

Mr. Tom Marking, Fisherman, McKinleyville, California.

Mr. Jim Martin presented Agenda Item F.1.c, Supplemental Public Comment: Letter from Northern California Chapter Recreational Fishing Alliance Chair Jim Martin.

F.1.d Council Action: Consider the South of Humbug Pacific Halibut Workgroup Report and Recommendations (9/15/2012; 4:28 p.m.)

Ms. Yaremko recommended requesting the NMFS trawl survey data. Based on the WCGOP information in California, it seemed likely that including the areas in California in the IPHC assessment would be appropriate, and the SHPHW should request the WCGOP data separately for all gear types. The SHPHW should also provide estimates of sport and commercial catch as far back as possible.
Ms. Culver asked if the purpose of looking at historical data was to establish a southern boundary for including California waters in the IPHC assessment or if there were other reasons. Ms. Yaremko replied it would provide valuable information for policy discussions, not necessarily tied to the assessment issue.

Ms. Culver was concerned with the reference to potential revision to the Area 2A halibut apportionment and was not prepared to support a South of Humbug Pacific Halibut Policy Committee (Policy Committee) objective to address overall reapportionment of 2A quota, but was willing to consider in the future a trigger that would allow additional allocation to the South of Humbug or another 2A subarea.

Mr. Steve Williams supported Ms. Culver’s comments and recommended the Policy Committee begin work with a target implementation date of 2014 for potential management changes.

Mr. Feldner asked if the SHPHW conducted any hindcasting of the South of Humbug Mountain Subarea management based on a Puget Sound management model. Mr. Tracy replied no, and that CDFG and ODFW staff would have to determine the feasibility of such an analysis.

Ms. Yaremko stated California did not envision putting sideboards on the Policy Committee at this time. The California fishery was a resurgent fishery, not an emerging fishery, and additional consideration of the basis for the current South of Humbug Mountain Subarea allocation was warranted.

Ms. Culver moved (Motion 5) to establish the purpose of the South of Humbug Policy Committee based on Agenda Item F.1.a, Situation Summary, third paragraph, as follows: to use the SHPHW report to support development of policies and methods to account for Pacific halibut abundance and distribution in California waters, estimating and monitoring recreational Pacific halibut catch in California waters, and ensuring compliance with catch allocation south of Humbug Mountain, and to exclude the last clause relating to considering revision of the overall Area 2A apportionment. Mr. S. Williams seconded the motion.

Ms. Yaremko moved to amend Motion 5 (Amendment 1 to Motion 5) to include the final clause: “and possibly considering revision of the overall Area 2A apportionment”. Mr. Brizendine seconded the motion.

Ms. Yaremko stated that prohibiting the Policy Committee from considering changes to the Catch Sharing Plan (CSP) would be too restrictive where small changes could provide good solutions to relevant issues.
Mr. Sones opposed the amendment and preferred that CSP changes be considered at the Council level rather than the Policy Committee level.

Mr. S. Williams opposed the amendment and stated that there was a difference between excluding allocation issues from the Policy Committee’s charge and excluding consideration of any CSP changes.

Mr. Wolford supported the amendment and stated that the increasing trend in abundance to the South identified in the SHPHW report indicated that a static allocation may not be appropriate and that the Policy Committee should not be prohibited from considering allocation issues.

Mr. Pollard supported the amendment and stated that the history of the south of Humbug subarea allocation should be further investigated.

Amendment 1 to Motion 5 failed (Mr. Myer, Mr. Sones, Ms. Lowman, Mr. Lincoln, Ms. Culver, Mr. Feldner, Mr. S. Williams voted no; Mr. Lockhart abstained).

Motion 5 carried (Mr. Crabbe voted no).

[Council completed this agenda item at 5:07 p.m. and adjourned for the day]

**F.2  2013 Pacific Halibut Regulations (9/16/2012; 8:02 a.m.)**

**F.2.a Agenda Item Overview**

Mr. Chuck Tracy provided the Agenda Item Overview and presented Agenda Item F.2.a, Attachment 1: 2012 Pacific Halibut Catch Sharing Plan for Area 2A; and Agenda Item F.2.a, Supplemental Attachment 2: Report on the 2012 Pacific Halibut Fisheries in Area 2A (9/3/2012).

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


Mr. Anderson stated that WDFW was considering another proposal to allow retention of Pacific Halibut in the directed sablefish longline fishery north of Point Chehalis prior to the recent opening date of May 1, and requested confirmation that a CSP change would not be required. Mr. Tracy replied that was correct, that the opening date was not specified in the CSP, and the dates were normally set during the March and April Council meetings; the only issue would be providing public comment opportunity prior to final action before an April 1 start date.

Mr. Steve Williams presented Agenda Item F.2.b, ODFW Report: Oregon Department of Fish and Wildlife Report on Proposed Changes to the Pacific Halibut Catch Sharing Plan for the 2013 Fishery.
Mr. Williams stated that ODFW was also considering a proposal to allow retention of Pacific Halibut in the salmon troll fishery beginning April 1, and asked if that decision could follow the same process as bycatch retention in the directed sablefish longline fishery north of Point Chehalis. Mr. Anderson replied the CSP referred to retention in the troll fishery starting in the May/June fishery, which would require a change to accommodate the ODFW proposal.


Ms. Yaremko stated that California Department of Fish and Game (CDFG) was also considering a proposal for public review to remove from the Federal regulations the statement that the South of Humbug Mt. Subarea was managed on a season that was projected to catch 6,056 pounds. The poundage was derived from the CSP, was based on an allocation negotiated when California was not involved in the fishery, and may be addressed in the Policy Committee process with a target implementation date of 2014.

Mr. John Holloway presented Agenda Item F.2.b, Supplemental GAP Report.

F.2.c Public Comment

Agenda Item F.2.c, Public Comment.
Mr. Jim Martin, Northern California Chapter Recreational Fishing Alliance.
Mr. Tom Marking, Fisherman, McKinleyville, California.

F.2.d Council Action: Adopt for Public Review Proposed Changes for the 2013 Pacific Halibut Catch Sharing Plan and Annual Fishing Regulations (9/16/2012; 8:47 a.m.)

Dr. McIsaac asked legal counsel and NMFS if the motion passed in April 2012 allowing management flexibility in 2013 with regard to meeting the South of Humbug Mt. Subarea allocation pending a policy process to resolve issues in time for the 2014 fishing season was applicable to the situation proposed by CDFG. Mr. Lockhart replied that as long as progress was being made to resolve the identified issues, the schedule proposed in April 2013 was not inappropriate.

Ms. Yaremko asked if the statement in the Federal regulations could be removed and remain in compliance with implementation of the CSP. Mr. Lockhart replied it would be difficult to remove that language without modifying the CSP.

Mr. Anderson was concerned about the CDFG proposal because it was inconsistent with the way the other subareas were managed under the CSP.

Mr. Anderson moved (Motion 6) to adopt for public review the changes to the halibut CSP shown in Agenda Item F.2.b, WDFW Report, for the Columbia River Subarea Recreational fishery to revise the early season structure to keep the early season open until 80 percent of the subarea allocation is reached, removing the provision that would close the early season on the
third Sunday in July; and revise the days of the week that the early season is open from Thursday through Sunday to Friday through Sunday. Mr. Lincoln seconded the motion.

Motion 6 carried unanimously.

Mr. Steve Williams moved (Motion 7) to adopt for public review the changes to the halibut CSP in the recommendations contained in Agenda Item F.2.b, ODFW Report, which, for the Oregon Central Coast Subarea Recreational Fishery, are to eliminate the summer all-depth fishery by transferring the entire quota to the spring all-depth and nearshore fisheries, and reduce the number of open days per week for the nearshore fishery from seven to three. Mr. Feldner seconded the motion.

Motion 7 carried unanimously.

Mr. Steve Williams moved (Motion 8) that, in recognition of the discussion with the April date and the reference of page 3 in the CSP plan, to adopt for public review an option to allow incidental harvest of halibut in the salmon troll fishery beginning April 1 of each year. Mr. Feldner seconded the motion.

Ms. Yaremko asked for the rational given for the CSP priority for the months of May and June. Mr. Williams replied that the incidental halibut catch is concentrated off the northern Washington Coast and the Oregon fishermen were interested in obtaining a larger share of the allocation.

Ms. Yaremko supported the motion, but noted that California troll fisheries do not start until May.

Motion 8 carried unanimously.

Ms. Yaremko moved and Mr. Brizendine seconded Motion 9 to adopt for public review the proposed changes to the halibut CSP as shown in Agenda Item F.2.b, CDFG Report, for the South of Humbug Mountain Subarea Recreational Fishery in California Waters Only with a change in the minimum size limit range as follows:

1. Shorten the May through October Season with a Summer Closure – Close fishing for Pacific halibut during some or all of July and/or August, creating a split season.
2. Re-instate a Minimum Size Limit – Prior to 2009, a 32-inch minimum size limit was in effect for the recreational fishery off CA, as well as OR and WA. Consider a minimum size limit from 32 to 48 inches.
3. Limit Days of the Week Open to Fishing –
   a. Option 3A: Allow fishing only on Fridays and Saturdays during the open months from May through October.
   b. Option 3B: Allow fishing only on Thursdays, Fridays and Saturdays during the open months from May through October.
4. Relating to the *Federal Register*, Subsection F, do not specify the projection of the catch to be 6,056 lbs. change it to say “May thru October.”

Ms. Yaremko stated that CDFG is committed to the CSP allocation process and to complying with established limits; however, the Council does not have formal teams or advisory bodies for Pacific halibut, which puts California at a disadvantage.

Mr. Wolford asked if CDFG Proposal 4 applies to the Oregon portion of the South of Humbug Mt. Subarea. Ms. Yaremko replied yes.

Mr. Lockhart stated that as written, CDFG Proposal 4 would be difficult to support and implement in the Federal regulations.

Mr. Steve Williams stated that the Council has already adopted a process to address issues in the South of Humbug Mt. Subarea by 2014 and proposals for 2013 were not appropriate given the level of information and lack of policy discussions to date. Including Oregon waters would not be appropriate given the majority of the catch increase has occurred in California waters.

Mr. Anderson stated that the Secretary of Commerce directed that the domestic allocation of Pacific Halibut, which is managed under an international treaty, should not be determined by the IPHC, and NMFS and the Council were directed to develop an allocation plan. The CSP was developed through the Council process, and a Council Halibut Advisory Group was convened subsequent to the adoption of the CSP, which provided opportunity for all coastal states to participate. It appears the CDFG motion proposed an all or nothing solution, with Proposals 1-3 intended to address the compliance issue while Proposal 4 intended to ignore it.

Mr. Sones supported Mr. S. William’s and Mr. Anderson’s comments regarding CDFG Proposal 4. Sending out a proposal that appears to ignore compliance with the CSP is not appropriate given the way the Council has managed Pacific halibut in the past.

[Council break 9:30 a.m. to 9:44 a.m.]

Motion 9 motion failed (Mr. S. Williams, Mr. Lincoln, Mr. Feldner, Mr. Ortmann, Ms. Lowman, Mr. Sones, Mr. Anderson, Mr. Myer and Mr. Lockhart voted no).

**F.3 Pacific Halibut Bycatch Estimate for Use in the 2013 Groundfish Fisheries (9/16/2012; 9:48 a.m.)**

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

Mr. Chuck Tracy provided the Agenda Item Overview and introduced Agenda Item F.3.a, Attachment 1: Letter from NMFS NWFSC to Dan Wolford.

**F.3.b National Marine Fisheries Service Recommendation**

Ms. Janell Majewski presented Agenda Item F.3.b, Supplemental NMFS PowerPoint; Agenda Item F.3.b, NMFS Report 1; and Agenda Item F.3.b, Supplemental NFMS Report 2.
F.3.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Owen Hamel presented Agenda Item F.3.c, Supplemental SSC Report.
Mr. John Holloway presented Agenda Item F.3.c, Supplemental GAP Report.

F.3.d Public Comment

None.


Mr. Anderson asked if the Council approved the Bycatch Report, would the IPHC use the actual bycatch estimate in the report or the bycatch cap under the trawl catch share program to manage 2013 fisheries. Dr. Leaman replied the IPHC would use the estimate of actual bycatch in the report.

Mr. Anderson moved (Motion 10) the Council approve the bycatch assessment provided by NMFS and transmit it to the IPHC for use in the 2013 fishery. Mr. Lincoln seconded the motion.

Motion 10 carried unanimously.

G. Administrative Matters

G.1 Legislative Matters (9/16/2012 10:20 a.m.)

G.1.a Agenda Item Overview

Mr. Mike Burner provided the Agenda Item Overview and oriented the Council members to the following documents:
Agenda Item G.1.a, Attachment 1: September 2012 Staff Summary of Federal Legislation.
Agenda Item G.1.a, Attachment 2: August 23, 2012 Letter from Congressman Thompson and Congresswoman Herrera-Buetler.
Agenda Item G.1.a, Supplemental Attachment 3: Legislation regarding the Pacific Coast Groundfish Fishery Capacity Reduction Program.

G.1.b Report of the Legislative Committee

Mr. Mike Burner provided Agenda Item G.1.b, Supplemental Legislative Committee Report.

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

None.

G.1.d Public Comment

None.
G.1.e Council Action: Consider Legislative Committee Recommendations (9/16/2012; 10:26 a.m.)

Ms. Lowman said that she believes there are many stakeholders, including fisherman and processors, who support H.R. 6362.

Mr. Myer moved and Mr. Anderson seconded Motion 11 that directs the Council Executive Director to send a letter to Congressman Thompson and Congresswoman Herrera-Buetler expressing Council support for, and comments on, H.R. 6362, the Revitalizing the Economy of Fisheries (REFI) of 2012 Act as recommended in Agenda Item G.1.b, Supplemental Legislative Committee Report.

Mr. Myer spoke to his motion, stating that fisherman could use some economic relief. The buyback program amounts to a five percent cost to fisherman, and when you include the cost recovery and observer expenses of the rationalization program, costs rise to roughly ten percent.

Mr. Crabbe expressed support for the bill and complimented the industry representatives who undertook a substantial amount of work and travel to Washington, D.C. to get this legislation in place.

Motion 11 carried (Mr. Lockhart abstained).

G.2 Research Planning (9/16/2012; 10:30 a.m.)

G.2.a Agenda Item Overview

Mr. Mike Burner provided the Agenda Item Overview and referenced Agenda Item G.2.a, Attachment 1: Initial Draft, Research and Data Needs, 2013.

G.2.b Fisheries Science Centers’ Strategic Research Plan

Dr. John Stein and Dr. Cisco Werner provided the Fisheries Science Centers’ Strategic Research Plan in Agenda Item G.2.b, NMFS FSC Report and Agenda Item G.2.b, Supplemental FSC PowerPoint.

G.2.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Owen Hamel presented Agenda Item G.2.c, Supplemental SSC Report.

Dr. Hamel agreed with Ms. Grebel that the research recommendations regarding salmon EFH under Agenda Item E.4.b, Supplemental SSC Report should be included in the public review draft of the research and data needs document.

Mr. Mike Burner read the following documents into the record:
Agenda Item G.2.c, Supplemental STT Report.
Agenda Item G.2.c, Supplemental GMT Report.

Mr. John Holloway presented Agenda Item G.2.c, Supplemental GAP Report.
Ms. Kelly Ames provided information regarding the Groundfish Management Team (GMT) Report and clarified for Mr. Crabbe that the GMT comments relative to Pacific halibut were aimed at developing a formula for estimating discard mortality that would avoid the needed handling of a viability assessment by an observer.

G.2.d Public Comment
None.

G.2.e Council Action: Consider the Fisheries Science Centers’ Strategic Research Plan and Approve the Council’s Five-Year Research Plan for Public Review. (9/16/2012; 11:15 a.m.)

Mr. Wolford spoke to the Salmon Technical Team (STT) report and requested that the proposed work on model development include an assessment of data needs to move to a 12-month fishery impact estimate to avoid the current accounting dilemma for fall salmon fisheries. He stated that such a modeling change would have substantial benefits for Council salmon management and should be of highest priority. Secondly, he noted the GMT addressed barotrauma research and the need to expand research to more species, particularly overfished species. Lastly, in socio-economic sections, there seems to be a disparity between the data and information for commercial versus recreational impacts and he noted that socio-economic data is critical to Council decision-making and recommended increased work on recreational fisheries.

Mr. Feldner disagreed that the data collection in support of model development should replace genetic stock identification (GSI) work as the highest priority. He felt that GSI work is one of the more promising tools in salmon management. He suggested that GSI remain a high priority research item and that data collection in support of model development be listed as a high priority data need.

Mr. Steve Williams moved and Mr. Feldner seconded Motion 12 that the Council adopt the 5-year research plan as shown in Agenda Item G.2.a, Attachment 1 for public review, incorporating the changes recommended by the SSC and taking into consideration the comments of the GMT, GAP and STT.

Mr. Steve Williams spoke to his distinct treatment of the advisory body statements in the motion. He stated that it is a challenge to identify the broad research needs of fishery management. He separated out the SSC statement because it included more specific recommendations on the document that could be incorporated easily. He appreciated the good comments of the other groups, but felt they were more general and thus appropriate for consideration in the next revision of the document.

Mr. Burner clarified that if the motion passes, then the SSC comments would be included in the document. Mr. Steve Williams clarified that in considering the reports of the GMT, GAP, and STT, Council staff should also consider Council comments. Mr. Burner stated that Council staff would revise the documents accordingly and post it to the Council web page for public review in advance of final adoption which is scheduled for March 2013.

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Ms. Grebel asked if the motion included the EFH addition to the document per the discussion with Dr. Hamel.

Mr. Williams concurred that it would be appropriate.

Motion 12 carried unanimously.

[Council concluded this agenda item at 11:28 a.m.]

G.3 Approval of Council Meeting Minutes (9/18/2012; 4:04 p.m.)

   G.3.a Council Member Review and Comments

Chairman Wolford called the Council’s attention to Agenda Item G.3.a, Attachment 1: Draft Minutes: 206th Session of the Pacific Fishery Management Council (November 2010).

   G.3.b Council Action: Approve Previous Council Meeting Minutes

Mr. Ortmann moved Motion 24 to approve the minutes of the June 2012 Council meeting. Mr. Pollard seconded the motion.

Mr. Myer offered a substitute motion (Motion 25) to approve the November 2010 Council meeting minutes as written in Agenda Item G.3.a, Attachment 1: Draft Minutes: 206th Session of the Pacific Fishery Management Council. Mr. Lincoln seconded the substitute motion.

Motion 25 carried (Mr. Feldner abstained).

G.4 Fiscal Matters (9/18/2012; 4:08 p.m.)

   G.4.a Agenda Item Overview

Mr. Chuck Tracy provided the Agenda Item Overview.

   G.4.b Budget Committee Report

Mr. Chuck Tracy presented Agenda item G.4.b, Supplemental Budget Committee Report.

   G.4.c Reports and Comments of Advisory Bodies and Management Entities

None.

   G.4.d Public Comment

None.

   G.4.e Council Action: Consider Budget Committee Recommendations

The Council took no action, but offered appreciation to the staff for the good audit report.
G.5 Membership Appointments and Council Operating Procedures (9/18/2012; 4:13 p.m.)

G.5.a Agenda Item Overview

Mr. Chuck Tracy provided the Agenda Item Overview and introduced the following attachments:
Agenda Item G.5.a, Attachment 1: Draft COP Protocol for Consideration of Exempted Fishing Permits for Coastal Pelagic Species Fisheries.
Agenda Item G.5.a, Attachment 2: Federal Register Notice regarding Proposed Rule for Confidentiality Regulations.
Agenda Item G.5.a, Attachment 3: Agenda Item B.1, Supplemental Open Comment 3, June 2012 (Confidentiality comments by the GMT).
Agenda Item G.5.a, Attachment 4: Advisory Body Composition.

G.5.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Chuck Tracy read Agenda Item G.5.b, Supplemental SSC Report.

G.5.c Public Comment

Mr. David Jincks, Midwater Trawlers Cooperative presented Agenda item G.5.c, Public Comment: Letter from Midwater Trawlers Cooperative.

Mr. Mike Storey, FV Pegasus, Warrenton, OR.

G.5.d Council Action: Consider Changes to Council Operating Procedures and Appointments to Advisory Bodies Including Changes for the 2013-2015 Term

Ms. Vojkovich asked if the state trawler positions on the GAP precluded appointment of a whiting fishery representative (as requested in the comments by Mr. Jincks). Dr. McIsaac replied no, only that the seat represent the specified community.

Mr. S. Williams noted the Oregon trawl GAP position has traditionally been a non-whiting bottom trawl fisherman.

Ms. Vojkovich moved Motion 26 to appoint Ms. Chelsea Protasio to the CDFG position on the CPSMT. Mr. Crabbe seconded the motion. Motion 26 carried unanimously.

Ms. Vojkovich moved Motion 27 to appoint Mr. Robert Leos to a CDFG position on the GMT. Mr. Brizendine seconded the motion. Motion 27 carried unanimously.

Mr. Lockhart moved Motion 28 to appoint Mr. Colby Brady to the NMFS NW Region position on GMT. Ms. Vojkovich seconded the motion. Motion 28 carried unanimously.

Mr. Sones reported the tribes will consult on tribal positions for the Habitat Committee and advisory subpanels, but were not prepared to propose a motion.

Ms. Vojkovich moved Motion 29 to adopt for public review the draft EFP for Council Operating Procedure 23. Mr. Crabbe seconded the motion. Motion 29 carried unanimously.
Mr. Tracy stated that the proposed rule governing confidentiality of information was an opportunity for advisory bodies that did not meet at the June Council meeting to provide comments; however, no other comments were received.

Mr. Wolford recommended the Council comments from June 2012 be submitted to NMFS. The Council concurred.

Mr. S. Williams asked staff what the approximate cost of an Advisory Body member was per year. Dr. McIsaac replied the annual cost ranged from about $2,000 per year for the CPSAS, to $4,500 for the SAS, to about $8,000 for the GAP.

Mr. Williams preferred trying to find someone who could represent both mid-water and bottom trawl interests, because of budget concerns. Ms. Lowman replied that a potential widow rockfish allocation in the future would make it more difficult to find someone to represent both mid-water and bottom trawl interests.

Ms. Vojkovich noted that managing groups of more than 14 people becomes very difficult, and adding another seat to the 20 currently on the GAP may make matters worse. Another configuration for the GAP that was gear-specific rather than State-specific may be worth considering.

Mr. Myer suggested considering revising the GAP trawl positions to specify one for bottom trawl and one for mid-water trawl.

Dr. McIsaac stated the Council should include any potential changes in composition at this meeting so the public and potential nominees would know what their options were on the advisory body seats they would be applying for.

Mr. Steve Williams moved (Motion 30) to add a mid-water trawl whiting position to the GAP. Ms. Lowman seconded the motion.

Mr. Crabbe asked where the expense for an additional GAP position would come from. Dr. McIsaac replied there was no specific line in the budget that would be affected, but the Budget Committee was contemplating a reduced budget scenario beginning in 2013.

Mr. Lincoln reported that Washington would consider appointing a mid-water representative to the Washington trawl seat on the GAP.

Mr. Steve Williams clarified that the motion was only for adding the mid-water trawl position that would be tentative until the Council made a final decision at the November Council meeting.

Ms. Vojkovich offered a substitute motion (Motion 31) to change the composition of the GAP to include three trawl positions, one at-large trawl, one bottom trawl, and one mid-water trawl,
which would replace the current Washington, Oregon and California trawl positions. Mr. Myer seconded the motion.

Ms. Vojkovich indicated the motion would provide the most flexibility without increasing the size of the GAP.

Motion 31 passed unanimously.

No discussion was given regarding the SAS composition.

Mr. Tracy recommended discussing appointment of tribal seats as either active fishermen or tribal agency positions. Dr. McIsaac recommended soliciting for the tribal GAP seat as either tribal agency or fisherman, and having the Council decide in November. Mr. Sones concurred.

The Council was in consensus to move forward with solicitation of the nominations to the advisory bodies.

G.6 Future Council Meeting Agenda and Workload Planning (9/18/2012; 5:09 p.m.)

G.6.a Agenda Item Overview
Dr. Don McIsaac presented the Agenda Item Overview and introduced the following attachments:
Agenda Item G.6a, Attachment 4: Proposed Council Meeting Agenda, November 2-7, 2012 in Costa Mesa.

G.6.b Reports and Comments of Advisory Bodies and Management Entities
Mr. Chuck Tracy read Agenda Item G.6.b, Supplemental GMT Report into the record.

G.6.c Public Comment
Agenda Item G.6.c, Supplemental Public Comment.
Mr. Steve Marx, Pew Environmental Group, Portland, OR.
Mr. John Holloway, Recreational Fishing Alliance, OR.

Mr. Lockhart asked if the recreational mid-water groundfish fishery could be introduced in June 2013 rather than November 2012. Mr. Holloway replied he could live with that.
Mr. Lockhart reported the Northwest Fisheries Science Center (NWFSC) requested the GMT begin work on the stock complex issue so as to meet a June 2013 Council agenda schedule; the NWFSC is prepared to present an update on the data moderate issue at the November Council meeting; and the NWFSC requested a discussion of the economic data collection at the November or March meeting. The Northwest Region (NWR) would like to provide a pre-scoping informational report on groundfish adaptive management at the November Council meeting, with a follow-up for the March Council meeting. Finally, the NWR intends to have discussions about the cost recovery process with industry prior to deeming the regulations and requests Council guidance on timing.

Mr. Wolford asked if the October 2012 GMT meeting would need to be extended to include the stock complex issue. Mr. Lockhart replied the NWR feels it is important for the GMT to weigh in on stock complexes at the November meeting.

Mr. S. Williams asked if the cost recovery deeming issue could potentially delay implementation of the program. Mr. Lockhart replied yes; one solution would be to allow the Council to deem regulations already adopted by the Council and have any industry input come at the proposed rule stage.

Dr. McIsaac stated the Council could only deem cost recovery regulations adopted by the Council, and if subsequent discussions with industry resulted in something different, the Council could not proceed with deeming without further consideration, presumably at the November Council meeting.

Mr. Lockhart asked if the Council was concerned with not having the comment period on cost recovery overlap a Council meeting. Ms. Vojkovich replied her perception of industry concerns was that the issues were minor, and she was not concerned with the comment period.

Mr. S. Williams asked if NMFS was comfortable with initiating the recreational mid-water fishery issue in June 2013. Mr. Lockhart replied yes, depending on how the issue integrates with the biennial groundfish regulation specification process.

Mr. S. Williams asked if it was possible to address the recreational mid-water fishery issue outside the specification process. Mr. Lockhart replied yes.

Mr. Williams recommended putting the recreational mid-water fishery issue on the June 2013 agenda.

Ms. Vojkovich recommended prioritizing GMT issues for the November meeting as follows: Barotrauma workshop (high), Amendment 24 (high), ecosystem plan (low), electronic monitoring (low), whiting season dates (low), and widow rockfish reallocation (low).
Ms. Lowman recommended not delaying widow rockfish reallocation and gear improvements issues.

[Council concluded with this agenda item at 6:10 p.m.]

**H. Groundfish Management**

**H.1 National Marine Fisheries Report (9/16/2012; 11:29 a.m.)**

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

Ms. Kelly Ames provided the Agenda Item Overview.

**H.1.b Regulatory Activities**

Mr. Frank Lockhart presented Agenda Item H.1.b, Attachment 1: *Federal Register* Notices Published Since the Last Council Meeting; and also reminded the Council that starting October 1, the NMFS Public Notices will be electronic only.

Mr. Lockhart noted that the annual renewal process has begun and applications for limited entry permits, quota share accounts, and vessel accounts have been mailed. Renewals must be completed by November 30.

Relative to the rationalized trawl fishery, Mr. Lockhart reminded the Council that, per the regulations, starting September 1, quota pounds in quota share accounts can no longer be transferred to vessel accounts. In 2012 there were several quota share account holders who decided not to transfer quota pounds to the vessel accounts, even after they were notified. Generally, all high value species were transferred to the vessel accounts. Those pounds, therefore, cannot be used in 2012. Also, per the regulations, quota pound transfers between vessel accounts must occur by December 15.

Mr. Lockhart also noted that the 2012 at-sea whiting fishery reports are available on the NWR’s website (http://tinyurl.com/9hlko82).

**H.1.c Fisheries Science Center Activities**

Mr. John Stein and Dr. Michelle McClure presented the Fisheries Science Center Activity Report in Agenda Item H.1.c, Supplemental NWFSC PowerPoint.

Ms. Vojkovich asked Dr. McClure to clarify the Center for Independent Experts (CIE) comments regarding the review of the California Bight Hook and Line Survey. Dr. McClure said data from that survey has been used in several stock assessments. The CIE reviewers made recommendations on how to make those data more useful for future stock assessments, which require additional analyses. The CIE reviewers also recommended analysis to determine whether the survey is random with respect to habitat.

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

None.
H.1.e  Public Comment

None.

H.1.f  Council Discussion

None.

[Council concluded this agenda item at 11:57 a.m. and broke for lunch.]

H.2  Trawl Rationalization Trailing Actions for Cost Recovery and Process Issues
(9/16/2012; 1:04 p.m.)

H.2.a  Agenda Item Overview

Mr. Jim Seger and Mr. Kerry Griffin presented the Agenda Item Overview and introduced:
Agenda Item H.2.a, Attachment 1: Final Council Cost Recovery Program Recommendations
(September 2011).
Agenda Item H.2.a, Attachment 2: Status of Trailing Actions and Calendar.

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

Mr. Frank Lockhart presented Agenda Item H.2.b, Supplemental NMFS Report 3: Letter from
Frank Lockhart regarding Modifications to Chafing Gear.
Ms. Ariel Jacobs presented Agenda Item H.2.b, Supplemental NMFS Report, Cost Recovery:  
Process Issues Needing Clarification from the Council.
Ms. Jamie Goen presented Agenda Item H.2.b, Supplemental NMFS Report 2: Future Carryover 
Options.
Capt Bob Farrell presented Agenda Item H.2.b, Supplemental EC Report.
Mr. Corey Niles presented Agenda Item H.2.b, Supplemental GMT Report.
Mr. Tommy Ancona presented Agenda Item H.2.b, Supplemental GAP Report.

H.2.c  Public Comment

Agenda Item H.2.c, Public Comment.
Mr. Bill James, Salem, Oregon.
Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon.
Mr. David Jincks, Mid-water Trawlers and Bob Dooley, United Catcher Boats; Newport, 
Oregon.
Mr. Mike Storey, F/V Pegasus, Warrenton, Oregon.

[Council break from 2:36 p.m. to 2:49 p.m.]

Issues (9/16/2012; 2:49 p.m.)

Ms. Vojkovich observed that NMFS could make some internal changes such that it might be 
possible to have the buyback and cost recovery fee programs use the same fee system, thereby 
generating efficiency and alleviating administrative burden for both industry and NMFS.  She
asked if bringing the two systems together was a huge process or just a matter of including it in a Federal rule that brings the programs together and streamlines them.

Mr. Lockhart responded that the buyback program is a headquarters program while cost recovery is regional and there is a concern about timely completion of the required Paperwork Reduction Act process, which can be lengthy. They are willing to explore approaches to get to a single form and a common form of payment, and want to make the program as simple and cost-effective as possible. A key part is the audit trail of funds being deposited into the proper subaccounts and the accompanying data need. He understood the concerns, but stated, given time constraints, that he did not know how to solve it right now.

Ms. Vojkovich commented that we should be trying to make cost recovery efficient with the least burden on everyone.

Mr. Myer said the at-sea fleet was wondering whether to include only whiting in the value determination (as in the Council’s final preferred alternative), or to also include non-whiting species. The industry would like to sit down with NMFS to discuss these issues.

There was a discussion of whether or not the total amount collected from the at-sea sector would vary depending on whether calculations were based on species other than whiting and how that might affect the amounts paid by individual firms.

Mr. Lockhart agreed to a discussion with industry, but noted that this still leaves the need for the Council to make its intent known with respect to a recommendation on inclusion of groundfish.

Mr. Anderson referenced the GAP recommendation and wondered why it would be done different ways in different sectors. Given that the differences are likely to be very small, he recommended that they assess fees for all groundfish species and the industry questions be worked out with NMFS before November. If through the deeming process the Executive Director becomes aware that the issue had not been worked out, it can be brought back to the Council in November.

Ms. Vojkovich agreed and noted it would make using a single form for buyback and cost recovery easier.

Mr. Myer concurred.

Mr. Griffin stated that we have clarity on the ex-vessel value, but we still have information to clarify on the non-compliance issue.

With respect to permit consequences for failure to pay the fee, Mr. Lockhart noted that the issue applied only to the catcher-processor/mothership sector for those limited circumstances that occur when the owner of the vessel is different than the owner of the permit.
Ms. Vojkovich noted that industry had not commented on this issue and, therefore, it seems NFMS’ recommendation is good. Other Council members concurred.

The Council then discussed the process issues of whether it would take up reconsideration of chafing gear recommendations and how it might proceed on carry-over.

With respect to the chafing gear issue, Mr. Lockhart asked for Council guidance to allow some additional analysis to be placed in the Environmental Assessment (EA).

Mr. Steve Williams said we were close to an agreement between industry and regulators, if that additional analysis would take in the recommendations for coming together, he would support moving forward with that. The confusing part is that we have a number of different recommendations that include additional analysis.

Mr. Myer concurred and expressed concern that bringing the issue back for additional Council action in November might prevent the issue from being completed before the 2013 season.

Mr. Lockhart noted that a decision on changing the action could not be made now. However, it would be okay to recommend adding to the analysis. In response to Mr. Wolford, Mr. Lockhart stated that adding this in would not affect the schedule for doing the analysis.

Mr. Anderson stated his understanding that the Council would not change its preferred alternative, but analysis of the additional option in the GAP report would be added, along with the definition of the codend, and the Enforcement Consultants (EC) clarification about the three-inch mesh. This would ensure that all of the issues associated with chafing gear were properly analyzed and we would make the final decision in November.

Mr. Lockhart concurred.

Dr. McIsaac characterized the decision as one to reconsider in November, at which time the previous final preferred alternative could be selected again.

Mr. Seger noted that the Council needed to make process decisions on carryover for whiting in the medium and long term and for nonwhiting for the long term.

Mr. Anderson noted that the problem was still one that is difficult to comprehend, but that because of the linkage to the U.S.-Canada Whiting Treaty, care is needed when the issue is discussed.

Mr. Lockhart stated that the issue is complicated on both sides and suggested that Council and NFMS staff work to develop a range of recommendations for Council consideration.

Ms. Vojkovich noted the need for clarity in terminology and expressed agreement with the GMT report that some options are not about carryover, but about holding back. The problem may need more definition and how to approach solving it, if there is a problem.
Ms. Lowman concurred and suggested that Council staff and NMFS work together to develop a discussion paper.

Mr. Seger stated that it does involve more than the trawl sector and that was why the GMT report talked about a National Standard 1 Guideline discussion as a place where this issue might come back. He noted the importance of making sure that people beyond the trawl industry are looking at this issue. Mr. Seger received confirmation that within the scope of the NMFS and Council staff doing work on carryover, there might be discussions with industry regarding carryover and the whiting treaty process.

[Council concluded this agenda item at 3:40 p.m.]

**H.3 Stock Assessment Planning (9/16/2012; 3:52 p.m.)**

**H.3.a Agenda Item Overview**

Mr. John DeVore presented the Agenda Item Overview and introduced the Council to the following documents:


Agenda Item H.3.a, Attachment 5: Draft Terms of Reference for the Methodology Review Process for Groundfish and Coastal Pelagic Species.


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

Dr. Jim Hastie and Dr. Michelle McClure presented:

Agenda Item H.3.b, Supplemental NMFS PowerPoint.


In response to questions, Dr. Hastie stated the Council was scheduled to consider a report of the data-moderate review by the SSC Groundfish Subcommittee next June; that yellowtail has not been close to the ACL or OY in the last decade; and that the Oregon substock of kelp greenling may be a candidate for a data-moderate assessment.

Mr. Wolford asked how reviewers would know if a data-moderate assessment would work. Dr. Hastie said that comparisons of full and data-moderate assessments at the review panel showed
that those that didn’t work (e.g., sablefish and spiny dogfish) did not fit the primary indices of abundance well.

Mr. Wolford asked about a process for discriminating the precision of a data-moderate assessment and using that information for determining stock status. Dr. Hastie said that the data-moderate methods review panel found close correlation in estimated stock status for many stocks with full and data-moderate assessments.

Ms. Joanna Grebel asked how a data-moderate assessment for vermilion rockfish would work given that a previous full assessment was not adopted, partially due to suspicions that there might be two vermilion stocks. Dr. Hastie said that any vermilion assessment might consider this split a stock complex and there is no information suggesting that these two substocks have different productivities.

Mr. Myer asked about the limitations regarding age samples for rougheye rockfish. Dr. Hastie said there have been otoliths collected from past trawl surveys and there could be a reasonable amount of age samples available for a full assessment. There is at least a decade of age samples available.

Dr. McIsaac asked about the west coast distribution of rougheye and yellowtail. Dr. Hastie said both stocks are distributed more on the north coast and are distributed well north of the U.S.-Canada border. Yellowtail is a more prominent component of fishery catches than rougheye.

Dr. McIsaac asked what it takes to get a positive Fish Stock Sustainability Index (FSSI) score from doing an assessment. Dr. Hastie said the FSSI was created at least a decade ago. Generally, species considered more important to fisheries are included in the FSSI, which is a Dow Jones-like index of important stocks. NMFS assigns point values for assessing FSSI stocks and developing sustainable management performance (i.e., staying within specified harvest limits) of FSSI stocks.

Dr. McIsaac asked about status determination using data-moderate assessment methods and being viewed as adequate under NMFS’s Stock Assessment Improvement Plan (SAIP). He asked which regions around the country use such assessments for determining stock status. Dr. Hastie said other regions, particularly the Southeast Region, use such assessments for determining status. However, in those cases there were no other data available for assessing these stocks. This Council is creating a unique situation where some data are explicitly being excluded to allow expeditious preparation and review of assessments.

Dr. Owen Hamel presented Agenda Item H.3.b, Supplemental SSC Report.

Ms. Grebel asked about new data or methods that might inform a full cowcod assessment. Dr. Hamel said the current assessment only includes the Conception area and the new assessment will analyze data in the Monterey area as well. There is also an indication that the Conception and Monterey cowcod may be separate stocks or substocks, so this may be two separate assessments.
Mr. Corey Niles presented:
Agenda Item H.3.b, GMT Report: Comments from Members of the Groundfish Management Team to the Scientific and Statistical Committee Regarding the Stock Assessment and Rebuilding Analysis Terms of Reference Documents and Continuing Issues with the Evaluation of Rebuilding Plans.

Mr. Tommy Ancona presented Agenda Item H.3.b, Supplemental GAP Report.

In response to a question, Mr. Ancona replied that the GAP did not discuss dropping a full assessment for cowcod, but did discuss rougheye and yellowtail. Of those two stocks, the GAP recommends doing a full assessment for yellowtail.

H.3.c Public Comment

Ralph Brown, Commercial fisherman, Brookings, Oregon.
Seth Atkinson, NRDC, San Francisco, California.

[The Council adjourned for the evening at 5:29 p.m.]

H.3.d Council Action: Final Adoption of (1) a List of Stock Assessments (Full, Updates, Data Moderate and Data Reports), (2) Three Terms of Reference (Including One for Coastal Pelagic Species), and (3) the STAR Panel Schedule (9/17/2012; 8:07 a.m.)

Mr. Troy Buell asked for clarification on how to determine stock status from data-moderate assessments. Dr. Hastie answered that they were recommending a process be developed in the coming months on how to determine status from data-moderate assessments. A realistic schedule would be to have the Council consider a process next March.

Mr. Wolford asked about the extent of the range of darkblotched rockfish and the proportion of the stock residing in Council waters. Dr. Hastie said he did not know, but he did look at yellowtail and rougheye rockfish distributions. Yellowtail landings have averaged 5,000-6,000 tons in Canada and is higher than in the U.S. Rougheye landings have been higher than that in Canada. While he didn’t look at darkblotched, there is a significant distribution north of the U.S.-Canada border.

Dr. McIsaac asked if the rougheye stock assessment would be for the entire coast and Dr. Hastie replied it would just be for the portion of the stock residing in the U.S. west coast Exclusive Economic Zone (EEZ) where there is available data.

Mr. Pollard moved and Mr. Groen seconded Motion 13 that the Council adopt the list of stocks to be assessed in 2013 as presented by Dr. Hastie in Agenda Item H.3.b, Supplemental NMFS PowerPoint, with yellowtail rockfish slated for full assessment.
Mr. Pollard stated that the NMFS Science Centers have provided us with the list of data-moderate stocks, but the increased harvest of yellowtail has persuaded him to add that stock assessment as a full.

Mr. Anderson moved and Mr. Lincoln seconded to amend the main motion (Amendment 1 to Motion 13) to include yellowtail as a data-moderate assessment and include rougheye as a full assessment.

Mr. Anderson explained there is less of a conservation concern for yellowtail given the last decade of Rockfish Conservation Area (RCA) protections. He believes a data-moderate assessment will be sufficient for this cycle. Rougheye, however, is a longer-lived species and is more vulnerable to overfishing and is, therefore, more of a conservation concern and a higher priority for a full assessment this cycle.

Mr. Myer said he is concerned with doing a data-moderate assessment of yellowtail and Mr. Anderson said a data-moderate assessment is appropriate for yellowtail since the SSC recommended rougheye or yellowtail for a data-moderate assessment. He was more confident in the data-moderate assessment for yellowtail than for rougheye.

After some discussion on the main motion and the effect of the amendment on the main motion if passed, it was agreed that the amendment would only remove yellowtail from the full assessment list and add rougheye since the main motion only concerned full assessments.

Mr. Wolford moved and Ms. Grebel seconded a motion to amend the amendment (Amendment 1a) to remove yellowtail as a data-moderate assessment from Mr. Anderson’s amendment.

Mr. Wolford said he would like to have the data-moderate discussion later and the intent is simply to add rougheye as a full assessment.

Amendment 1a carried unanimously.

Mr. Buell moved and Ms. Grebel seconded to amend the amendment (Amendment 1b) to designate rougheye as a full assessment and remove yellowtail as a full assessment in the amendment.

Amendment 1b carried unanimously. Amendment 1, as amended, carried unanimously.

Dr. McIsaac asked for clarity on the original motion as amended. Mr. DeVore listed the eight stocks selected for full assessments as shown on the proposed 2013 schedule (Agenda Item H.3.b, Supplemental NMFS PowerPoint, slide 11).

Motion 13, as amended, carried unanimously.

Mr. Wolford explained we need to develop a process for deciding status from a data-moderate assessment before deciding a list of stocks for such an assessment. Dr. McIsaac said the Council
could assign Council staff and interested parties the task of providing alternatives for a process for determining stock status from data-moderate assessments.

Mr. DeVore explained that the list of data-moderate assessments needs to be decided today if there is an expectation to conduct and review these assessments in 2013. The assessment scientists need to work up the data and do the requisite analyses; a chore that cannot be done after March when a process for status determination is decided. Mr. Wolford said he understands the timing to move forward with these assessments. He would like to know what we are going to do about status determination in advance of seeing assessment results. Mr. DeVore agreed and said the proposal is to convene a review panel in late April with Council consideration of adopting the assessment for management use in June. He suggested the process for determining status should be developed prior to the assessment review in late April.

Ms. Lowman said she heard an assignment to staff to come up with a plan for using data-moderate assessment results for status determination. She asked if we need a motion for that or give the assignment as guidance if there is consensus. It was decided a motion was not needed and the Council gave consensus.

Mr. Lockhart asked how many stocks should be selected for data-moderate assessments and Dr. Hastie said the SSC recommended a limit of ten. Dr. Hastie recommended a list of the top priority stocks should be selected and a limit of how many stocks should be so assessed.

Mr. Wolford asked if we could do one more full assessment in lieu of ten or so data-moderate assessments and Dr. Hastie said that could probably be the case. However, the data-moderate methods and review process were developed to gain understanding of stock status and sustainable harvest levels for more stocks. We are limited in our capacity to do more full assessments, so this process was developed to mitigate this problem.

Ms. Grebel supports Mr. Anderson’s concerns with not having a process for determining stock status from data-moderate assessments before selecting a list of candidate stocks for data-moderate assessment. She would prefer a shorter list of data-moderate assessments to work out the kinks in using these new methods.

Mr. Lockhart said these methods fill an important gap in understanding stock status, and he agrees that a few representative species from different taxa are the top priority. He believes the GAP list is reasonable as a starting point, except replace rougheye with yellowtail. He also agrees that we need to develop a process for determining stock status in advance of reviewing data-moderate assessment results.

Mr. Lincoln supports the intent to expand the Council’s capacity to understand more about stocks that are not currently assessed or have outdated assessments. He agrees we need to develop a process for determining stock status in advance of seeing results, but he is confident that can be done while still pursuing data-moderate stock assessments in 2013. He does believe we would otherwise miss an important opportunity.
Mr. Lockhart suggested that the November NMFS report could provide more information on a possible process for interpreting data-moderate assessment results. He asked if deciding a list of priority stocks for data-moderate assessment in November would work and Dr. McIsaac said it would be ideal to decide the list now. He said the Council can decide a process for interpreting results next March or April.

Mr. Lockhart moved and Mr. Pollard seconded Motion 14 to prepare data-moderate assessments for the stocks listed in Agenda Item H.3.b, Supplemental GAP Report with the exception of doing a data-moderate assessment of yellowtail rather than rougheye. If not all these stocks can be assessed, then allow the science centers to prioritize from this list.

Mr. Lockhart agreed there was discomfort in selecting this list, but we cannot afford to wait to prepare these assessments.

Mr. Wolford said he is comfortable with this motion with the provision that the Council decide a process for interpreting results prior to seeing results from data-moderate assessments.

Mr. Anderson said he supports the motion and would appreciate an update on the list of candidate stocks in November.

Ms. Grebel wondered if a full yellowtail assessment could be reviewed at the same Stock Assessment Review (STAR) panel as the data-moderate assessments. Dr. Hastie said that the potential complication is the different terms of reference for full and data-moderate assessments. Also, reviewers are selected based on their expertise with the assessment methods, which are different for these two classes of assessment.

Motion 14 carried unanimously.

Mr. DeVore updated the Council on the remaining issues in this agenda item for Council consideration.

Mr. Buell moved and Mr. Feldner seconded Motion 15 for the Council to adopt bocaccio as an update assessment and canary, Pacific ocean perch, and yelloweye as data reports.

Mr. Buell explained the rationale for this action was adequately expressed at the June Council meeting.

Motion 15 carried unanimously.

Ms. Grebel moved and Mr. Brizendine seconded Motion 16 that the Council adopt the final Terms of Reference for the Groundfish and Coastal Pelagic Species Stock Assessment and Review Process for 2013-2014 as provided in Agenda Item H.3.a, Attachment 3: Draft Terms of Reference for the Groundfish and Coastal Pelagic Species Stock Assessment and Review Process for 2013-2014; adopt the Terms of Reference contained in Agenda Item H.3.a, Attachment 4: Draft Terms of Reference for the Groundfish Rebuilding Analysis for 2013-2014); and adopt the
Terms of Reference for the Methodology Review Process for Groundfish and Coastal Pelagic Species as provided in Agenda Item H.3.a, Attachment 5; and include the SSC and GMT recommendations for these terms of reference.

Ms. Grebel stated that the SSC and GMT had a good discussion regarding improvements to rebuilding analyses and their recommendations are sensible.

Motion 16 carried unanimously.

Mr. DeVore recommended tasking Council staff and the science centers to add terms in the stock assessment Terms of Reference for conducting and reviewing data-moderate assessments as described in the proposed stock assessment plan. These Terms of Reference can be reviewed in November. The Council agreed with that guidance.

Mr. Anderson moved and Mr. Lincoln seconded Motion 17 to adopt the NMFS Science Centers’ recommendations for the stock assessment review schedule as shown in Agenda Item H.3.b, Supplemental NMFS PowerPoint, with the clarification that panel one will review the new darkblotched assessment and panel two will review the new rougheye assessment.

Motion 17 carried unanimously.

[Council completed this agenda item at 9:24 a.m.]

H.4. Update on Biological Opinion for the Groundfish Fishery, Including Consideration of Seabird Protection Regulations (9/17/2012; 9:38 a.m.)

H.4.a Agenda Item Overview

Ms. Kelly Ames provided the Agenda Item Overview.

H.4.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Frank Lockhart presented:

Mr. Colby Brady presented Agenda Item H.4.b, Supplemental GMT Report.
Mr. John Holloway presented Agenda Item H.4.b, Supplemental GAP Report.

H.4.c Public Comment

None.

Ms. Marija Vojkovich noted that the Alaska streamer line regulations provided in the NMFS Report may not work for the west coast fishing operations. Mr. Lockhart said the agency included the regulations in the briefing book as a starting point for the discussion. NMFS intends to work through the Council process within the timeline provided by USFWS and hopes to resolve any operational and enforcement issues.

Ms. Vojkovich noted the draft opinions did not propose the number of seats and composition for the proposed Pacific Coast Groundfish and Endangered Species Workgroup, yet did discuss the timing and agendas for the meetings. Mr. Lockhart said the agencies are open to input from the Council regarding the composition and size of the workgroup. The timing of meetings is limited by the ability to get new information. He hoped that the size of the workgroup would be efficient and manageable. Mr. Lockhart referenced recommendations to add non-federal employees to the workgroup. He acknowledged the Federal Advisory Committee Act (FACA) restrictions, which limit the participation of non-federal employees on the workgroup. However, the agencies are committed to working through the Council process to solicit feedback on proposed changes. The overarching goal of the advisory body recommendations, he said, is to ensure Council participation. Mr. Lockhart believes there are sufficient opportunities to do this.

Ms. Vojkovich asked about the funding for the new data collection requirements listed in the biological opinion. Mr. Lockhart said that for the most part the data collection systems are in place, the requirements largely pertain to the analysis and reporting requirements. Ms. Allison Agness, from NMFS Protected Resources Division, noted that the biological opinions include minimum data standards. In some cases, for example the rationalized fishery, current observation levels exceed the minimum requirements. However, for some fisheries, in order to meet the goal of providing fleetwide take estimates, coverage would need to be increased. Ms. Agness said there is flexibility for implementing those measures over time. Mr. Lockhart said as those issues arise, the agency would evaluate funding.

Mr. Troy Buell acknowledged the FACA concerns. He encouraged the working group and agencies to work with the states regarding available data. For example, he noted the required Oregon fixed gear logbooks, which contain information on lost fixed gear.

Dr. McIsaac referenced the GMT recommendation that the workgroup be a Council Advisory Committee. He said that recommendation cannot be accomplished within the current budget constraints; however, Mr. Lockhart indicated there were available avenues for participation. Dr. McIsaac asked Mr. Lockhart to elaborate on the Council’s participation in this workgroup. Mr. Lockhart said representatives from the workgroup could come to the Council meeting and solicit feedback. Additionally, workgroup meetings could be open to the public and Council representatives could attend as members of the public and participate with input.

Ms. Vojkovich asked Mr. Lockhart about the GMT recommendation to align the streamer line regulations with the next biennial management cycle. Mr. Lockhart generally agrees with the
GMT recommendation. The workgroup and consulting biologists would like to be engaged and coordinate with the management process.

Ms. Vojkovich asked about take of endangered species during agency-sponsored research, for example the catch of eulachon in the Fishery Science Center hake and sardine surveys. Mr. Lockhart said the agency consults with itself with regard to research impacts, including mitigation and preparation of incidental task statements.

Mr. Buell referenced the characterization of non-groundfish fishery impacts included in the groundfish biological opinion. He believes it is important to characterize the non-fishing impacts to the endangered species, for example climate change. Mr. Lockhart said those impacts are acknowledged and characterized.

Ms. Lowman recommended forwarding the comments of the GMT and GAP to the agencies and workgroup.

Mr. Lockhart said he would like to come back to the Council with a range of options that would allow for Council input to the workgroup while operating within the FACA requirements.

Ms. Ames requested that the final versions of the biological opinions be forwarded to the Council upon completion. Mr. Lockhart anticipates the final versions will be available by the end of the year.

Ms. Lowman said part of the Council action is to discuss timelines for implementing the conditions presented in the biological opinions. She said the Council mentioned aligning implementation with the biennial management process and asked if there were other timing recommendations. Mr. Lockhart noted that the USFWS draft biological opinion recommends the seabird avoidance measures be completed as soon as possible, but no later than two years from the publication of the final opinion. He recommends bringing forward a range of alternatives for streamer lines in the spring of 2013. He will recommend a more specific timeline – March or April - under Agenda Item G.6, Future Council Meeting Agenda and Workload Planning. He does not believe this measure needs to be aligned with the biennial management cycle since it is a relatively modest change for vessels; most vessels are deploying the streamer lines on a voluntary basis. He believes regulations could be in place by 2014.

**H.5  Consideration of Inseason Adjustments (9/17/2012; 10:25 a.m.)**

**H.5.a  Agenda Item Overview**

Ms. Kelly Ames provided the Agenda Item Overview.

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

Mr. Frank Lockhart presented Agenda Item H.5.b, NMFS Report: West Coast Groundfish IFQ Fishery Catch Summary: Mid-year Report, 2012.
Mr. Lockhart also reviewed the history of the agency’s decisions on issuing 2011 surplus carryover into the 2012 shorebased individual fishing quota (IFQ) fishery. Carryover was issued for all species, except Pacific whiting and sablefish (both north and south of 36° N. latitude). Mr. Lockhart also wanted to clarify that the agency is considering reapportionment of tribal Pacific whiting into the non-treaty fisheries. The agency is not, however, considering issuance of surplus carryover in the IFQ fishery because of the implications related to the Pacific whiting treaty which cannot be resolved by the end of the year. Mr. Lockhart said that the agency is unaware of any information that would compel issuing surplus carryover for sablefish north of 36° N. latitude. However, if projections for sablefish south of 36° N. latitude continue to show low risk for exceeding the annual catch limit (ACL), then NMFS could consider issuing surplus carryover in the south. Mr. Lockhart said the agency is interested in working with the Council on long-term solutions to the surplus carryover issues.

Mr. Myer asked about the timeline for the treaty reapportionment decision, noting that a reapportionment in December is not ideal. Mr. Lockhart said the regulations state that on September 15 the agency must evaluate the data and, as soon as possible thereafter, make a decision on reapportionment. The agency has initiated discussions with the tribes and hopes to make a decision as soon as possible; a decision is likely by the end of the month.

Dr. McIsaac noted that the GMT and GAP reports contain information regarding surplus carryover. He asked Mr. Lockhart about the timing for the agency’s decision on whether to issue surplus carryover. Mr. Lockhart said there are efficiencies to making the reapportionment and surplus carryover decisions on the same timeline.

Ms. Lowman encouraged Mr. Lockhart to consider the information which will be presented by the GMT and GAP regarding sablefish north projections as it relates to the issuance of surplus carryover. Mr. Lockhart agreed.


Ms. Joanna Grebel spoke to the California Department of Fish and Game inseason request to move the recreational rockfish conservation area (RCA) in the Southern Management Area (south of 34°27’ N. latitude) from 60 fm to 50 fm. In June, there were lengthy discussions about the RCA configuration in this area for the 2013-2014 cycle. The Council adopted the 50 fm structure to reduce cowcod interactions. In the upcoming GMT report, you will note that the scorecard has been updated to reflect the 2011 year-end estimates, which were 0.83 mt (compared to a projection of 0.2 mt). Ms. Grebel notes that the fishery interactions are monitored on a weekly basis, which provides in essence an early warning system before the final estimates are generated. The agency is working with the Pacific States Marine Fisheries Commission to update the Recreational Information Estimates for California; at this time there are no estimates. The number of cowcod interactions in 2012 is the same as those in 2011; therefore, if fishery conditions are the same as in 2011, a reasonable estimate would be 0.8 mt.
However, given the uncertainty in the final estimates, the agency is recommending that the RCA be moved to 50 fm.

Mr. Dan Erickson and Ms. Rosemary Kosaka presented Agenda Item H.5.b, Supplemental GMT Report.  
Mr. Tommy Ancona presented Agenda Item H.5.b, Supplemental GAP Report.

**H.5.c Public Comment**

Mr. Mark Cooper, Trawl Fisherman, Toledo, Oregon.  
Mr. Andrew Bornstein, Bornstein Seafood, Astoria, Oregon.

**H.5.d Council Action: Adopt Final Recommendations for Adjustments to 2012 Groundfish Fisheries (9/17/2012; 11:17 a.m.)**

Ms. Grebel moved and Mr. Brizendine seconded Motion 18 to adopt the GMT recommendations in Agenda Item H.5.b, Supplemental GMT Report, which are:

- Increase the trip limits in the open access fixed gear sablefish daily trip limit fishery south of 36° N. latitude from “300 pounds per day, or one landing per week of up to 1,350 pounds, not to exceed 2,700 pounds per two months” to “350 pounds per day, or one landing per week of up to 1,750 pounds, not to exceed 3,500 pounds per two months” starting November 1 through the end of the year and
- Modify the California recreational rockfish conservation area in the Southern Management Area (south of 34°27′ N. latitude) from 60 fathoms to 50 fathoms as soon as possible to the end of the year.

Ms. Grebel said the risk of increased effort in the open access fishery as a result of the period 6 trip limits is expected to be minimal since markets have been difficult to secure and the proposed trip limits for 2013 are lower than the limits in her motion. She also noted that the language in her motion for the California recreational fisheries is slightly different than the wording in the GMT report, which is necessary for the state to take concurrent action.

Mr. Dan Wolford requested clarification regarding the state-managed fishing opportunities that would be impacted by the RCA adjustment. Ms. Grebel said ocean whitefish and California sheephead targeting opportunities would be prohibited in the closed area.

Mr. Wolford asked if groundfish targeting would be prohibited. Ms. Grebel said the same prohibitions would apply; the only change is the depth restriction to which it applies (50 fm, instead of 60 fm).

Ms. Ames noted that the current Federal regulations prohibit fishing for all federally-managed species seaward of the 60 fm line, except for California scorpionfish and other flatfish, as stated in the GMT report. She asked Ms. Grebel to confirm whether those exceptions would apply under the 50 fm boundary. Ms. Grebel said yes.

Motion 18 carried unanimously.
Mr. Dale Myer thanked the GMT for the projected impacts analysis for sablefish relative to surplus carryover for the IFQ fisheries. He hopes this information will be useful to NMFS and provide security for issuing the shorebased carryover, particularly in the north. Mr. Meyer thanked the GAP for the information on the tribal reapportionment issues and recommends the guidance is forwarded to NMFS.

Ms. Lowman agreed with Mr. Meyer’s comments and encouraged NMFS to consider the information brought forward for issuing surplus carryover both in the north and south. She said that Mr. Bornstein spoke to the incentives under public comment, which further supports the decision to issue surplus carryover.

Mr. Lockhart also thanked the advisory bodies for the analysis and discussion. He said that in June the agency committed to review the information later in the year as the fishery progressed. The agency will examine the information, review the Council discussion, and reexamine their conclusions with regard to issuing surplus carryover for sablefish.

[Council concluded this agenda item at 11:25 a.m.]

**H.6 Phase 1 Report for Essential Fish Habitat Review (9/17/2012; 11:34 a.m.)**

**H.6.a Agenda Item Overview**

Mr. Kerry Griffin provided the Agenda Item Overview and introduced the following attachments:
Agenda Item H.6.a, Attachment 1: Draft Request for Proposals (RFP) to Modify Essential Fish Habitat for Pacific Coast Groundfish.
Agenda Item H.6.a, Attachment 2: Public Comments on the Draft RFP.

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

Dr. Waldo Wakefield, Mr. Brad Pettinger and Mr. Chris Romsos presented:
Agenda Item H.6.a, Supplemental EFHRC PowerPoint.

[Council break from 12:01 p.m. to 1:08 p.m.]

Dr. Michelle McClure presented Agenda Item H.6.b, NMFS Report: NMFS Science Center Synthesis Outline: NMFS Science Center Analysis of the Council’s EFHRC Groundfish EFH Phase 1 Report.
Dr. Owen Hamel presented Agenda Item H.6.b, Supplemental SSC Report.
Mr. Rob Jones presented Agenda Item H.6.b, Supplemental GMT Report.
Mr. John Holloway presented Agenda Item H.6.b, Supplemental GAP Report.
Mr. Kerry Griffin read Agenda Item H.6.b, Supplemental HC Report.
Mr. Brad Pettinger presented Agenda Item H.6.b, Supplemental EFHRC Report 2.
H.6.c  Public Comment

Agenda Item H.6.c, Public Comment.
Mr. Geoff Shester, Oceana, San Francisco, California.
Mr. Seth Atkinson, NRDC, San Francisco, California.

H.6.d  Council Action: Approve the Phase I Report, Request for Proposals, and the
EFH Elements for Analysis by the NWFSC (9/17/2012; 2:05 p.m.)

Dr. McIsaac asked, with regard to prey species, what is included in the Phase 1 Report.  Mr. Griffin identified where the prey species section is located within the Phase 1 report.  He said that the seminal source on prey items came from the Dufault et al NOAA technical memorandum.  He noted that the Essential Fish Habitat (EFH) regulatory guidance calls for identifying “major prey items” for each EFH species, something that the Essential Fish Habitat Review Committee (EFHRC) struggled with, because there is no guidance on how to determine what constitutes a “major” prey species.  He also stated that we have a lot more information on prey items now than was presented in Amendment 19.

Mr. Griffin reviewed the task for Council consideration and the main recommendations of the EFHRC.

Ms. Vojkovich commented on the fact that the amount of information we have available now is light years ahead of what we had the last time around, and that we have enough information in the report to make the decisions necessary.  Mr. Wolford concurred, and voiced support for considering that Phase 1 of the review is complete.

Mr. Crabbe asked about new information that may come to light, after completion of the Phase 1 Report.  Mr. Griffin said that there was a lot of discussion within the EFHRC and the committee was conscious of the “left field” proposal.  That is why the RFP includes those caveats, such that the bar would be set very high in order for new information to be considered.  In other words, the RFP leaves the door open, but it is a high bar.

Dr. McIsaac said that with regard to the final (Phase 1) report, there is assumed to be an advanced degree of finality.  If much new information were to be added thereafter, it could make the rest of the process unstable.  Mr. Crabbe concurred, and says in order to conclude Phase 1, we have to draw a line.

Mr. Lockhart asked if the prey table would still be open to fill in the table, and asked Ms McClure whether that could be something done as part of the NMFS synthesis.  Ms. McClure stated that getting prey species information is a challenge, but it could be explored.

Mr. Anderson moved and Ms. Lowman seconded Motion 19 that the Council adopt the Phase 1 Report and consider that Phase 1 of the EFH process is complete.

Mr. Crabbe asked for clarification from the potential filling in of information and if that was intended to be in this report.  Mr. Lockhart clarified that he thought any new information on prey
species (post Phase 1 Report) would not be part of Phase 1, but would rather be part of the synthesis report.

Ms. Lowman clarified that when she seconded the motion, she assumed the addendum was included in the motion. Mr. Anderson said no, because he had some concerns about the addendum. He said that a description of Indian treaty fishery rights needs to be reviewed legally because he didn’t think it is correct as currently included in the Phase 1 Report.

Mr. Wolford clarified that the motion does not include the information in EFHRC Report 2 (addendum), and Mr. Anderson concurred.

Motion 19 carried unanimously.

Council members discussed the issue of new information and the RFP. Ms. Vojkovich suggested that the RFP should be released only after completion of the NMFS synthesis document. Mr. Anderson concurred and opined that the EFHRC Report had a number of useful recommendations.

Mr. Anderson moved and Ms. Vojkovich seconded Motion 20 that the Council accept the report from the EFHRC (Agenda Item H.6.b, Supplemental EFHRC Report 2), and the recommendations contained within that report except:

- Under #5 “Information and Research Needs” the time frames under short term, medium term, and long term will be deleted;
- In the language on page 5 under “Request for Proposals” the indented paragraph would include the entire second paragraph and only the first sentence of the first paragraph; and
- With the caveat that the affected parties in U.S. v. Washington conduct the appropriate legal review and reach a consensus on the language that is included in that report.

Mr. Griffin noted that the EFHRC Supplemental Report 2 (the addendum) potentially contradicts the language in the motion regarding additional information coming to light after adoption of the Phase 1 Report. The motion was completed and then seconded by Ms. Vojkovich.

[Council break from 2:35 p.m. to 2:42 p.m.]

Mr. Anderson spoke to his motion, saying that the committee did an excellent job, but that some of the tasks and timeline on pages 2-3 were not realistic, that there was a lack of clarity about when the phases began and concluded; and that the proposed language change on page 5 in the motion would eliminate the potential conflict regarding Phase 1 conclusion. Mr. Anderson clarified that the deletion would only be in the first paragraph and not the second paragraph.

Motion 20 carried unanimously.
The Council confirmed that while there were suggested changes to the RFP, the Council does not have to approve or issue the RFP at this point, recognizing that the RFP should not be issued until after the NMFS synthesis report is completed.

Ms. Vojkovich moved and Mr. Anderson seconded Motion 21 that the Council approve the NMFS Science Centers Synthesis Outline.

Motion 21 carried unanimously.

[Council concluded this agenda item at 2:54 p.m.]

**H.7  Reconsideration of Initial Catch Share Allocations in the Mothership and Shoreside Pacific Whiting Fisheries (9/17/2012; 3:04 p.m.)**

**H.7.a  Agenda Item Overview**

Mr. Jim Seger presented the Agenda Item Overview with the following attachments:
- Agenda Item H.7.a, Supplemental Agenda Item Overview (PowerPoint).
- Agenda Item H.7.a, Attachment 1: Reconsideration of Initial Catch Share Allocations in the Mothership and Shoreside Pacific Whiting Fisheries, Draft Environmental Assessment.
- Agenda Item H.7.a, Supplemental Attachment 3: Supplemental Analysis/Errata.

Mr. Myer will recuse himself from voting on this agenda item due to a conflict of interest created by the fact that he is employed by a company involved in Pacific whiting harvest with a quota allocation.

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

Mr. Frank Lockhart presented:

Ms. Mariam McCall provided some oral guidance for Council consideration.

Dr. Owen Hamel presented Agenda Item H.7.b, Supplemental SSC Report.

Mr. Tommy Ancon presented Agenda Item H.7.b, Supplemental GAP Report.

**H.7.c  Public Comment (9/17/2012; 3:53 p.m.)**

Agenda Item H.7.c, Public Comment.
- Agenda Item H.7.c, Supplemental Public Comments 2-14.
- Mr. Mike Hyde, American Seafoods, Seattle Washington.
Mr. Todd Whaley, F/V Miss Sarah, Brookings, Oregon; presented Agenda Item H.7.c, Supplemental Public Comment 9.
Mr. James “Bud” Walsh, Davis, Wright & Tremayne, LLP, San Francisco, California; referenced letter in Agenda Item H.7.c, Public Comment.

[Council adjourned for the evening at 4:53 p.m.; reconvened on 9/18/2012 at 8:08 a.m.; and continued with agenda item D.1 prior to continuing with H.7.c, Public Comment at 8:14 a.m.]

Mr. Pierre Marchand, Jessie’s Ilwaco Fish Company, Ilwaco, Washington.
Mr. Marion Larkin, fisherman, Mt. Vernon, Washington.
Mr. Brad Pettinger, permit holder, Brookings, Oregon.
Mr. Jim Seavers, trawler, Newport, Oregon; presented Agenda Item H.7.c, Supplemental Public Comment 10.
Mr. Mike Stone, F/V Arctic Fury, Seattle, Washington.
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, Oregon; presented:
   Agenda Item H.7.c, Supplemental Public Comment 6 (Mr. David Jincks, Midwater Trawlers Cooperative, Newport, Oregon).
   Agenda Item H.7.c, Supplemental Public Comment Midwater Trawlers Cooperative (PowerPoint).

[Council break from 9:39 a.m. to 9:55 a.m.]

Ms. Donna Parker, Arctic Storm, Seattle, Washington.
Mr. Chris Kayser, Mr. Richard Carroll, and Mr. Dennis Rydan, Ocean Gold Seafood; presented Agenda Item H.7.c, Supplemental Public Comment 4 (Mr. Christopher Kayser, Larkins Vacura LLP, Portland, Oregon) and Agenda Item H.7.d, Supplemental Public Comment PowerPoint (Ocean Gold).
Mr. Steve Hughes, Attorney for Plaintiff Catcher Vessel, Natural Resources Consultants, Inc, Seattle, Washington; presented Agenda Item H.7.c, Supplemental Public Comment 6.
Mr. Mike Storey, F/V Pegasus, Warrenton, Oregon; presented Agenda Item H.7.c, Supplemental Public Comment 12 (Letter).

[Council break from 11:05 a.m. to 11:18 a.m.]

Mr. Robert Smith, F/V Raven, Newport, Oregon; presented Agenda Item H.7.c, Supplemental Public Comment 8.
Mr. Mark Cooper, Toledo, Oregon; referred to Agenda Item H.7.c, Public Comment in regard to F/V Pacific Challenger.
Mr. Shems Jud, Environmental Defense Fund, West Linn, Oregon.
Mr. Tom Libby, Point Adams Packing Company, Astoria, Oregon.
Mr. Craig Urness and Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, Washington.

[Council break from 12:01 p.m. to 1:05 p.m.]

Mr. Joe Plesha, Trident Seafoods, Seattle, Washington.
Mr. Brent Paine, United Catcher Boats, Seattle, Washington.
Mr. Craig Cross, Aleutian Spray Fisheries, Seattle, Washington.
Mr. Jeff Lackey, F/V Seeker Inc, Newport, Oregon.
Ms. Heather Mann, Siletz, Oregon; read letter from Mr. Mike Retherford, Agenda Item H.7.c, Supplemental Public Comment 11.

[Council break from 1:48 p.m. to 2:11 p.m.]

[NOTE: The Council reconvened at this point and addressed staff with several questions, followed by final Council action. The remaining minutes under this agenda item summarize those questions and responses, and the Council’s final action. A complete transcript of this portion of the Council meeting through final action is contained in Chapter 10, Appendix to the Reconsideration of Initial Catch Share Allocations in the Mothership and Shoreside Pacific Whiting Fisheries, Preliminary Draft Environmental Assessment and Magnuson-Stevens Act Analysis, October 2012.]

Dr. Hanson asked Mr. Seger to clarify the history regarding the 2003 and 2004 dates and why they are different.

Mr. Seger replied that the Council took action November 6, 2003 to adopt the control dates for processors and for harvesters. However, in the January 2004 Federal Register notice that announced those control dates for the general public, it mentioned only harvesters and did not mention processors receiving an allocation. Subsequent to that, just after the start of the 2004 whiting season, the clarification was issued indicating that the Council was also considering an individual processing quota (IPQ) program, as well as IFQs, and the control date would apply to that IPQ program and to processors. Then in May of 2005, just before the 2005 shoreside season started, yet another clarification was issued to indicate that the 2003 control date would apply to processors with respect to the harvester shares.

Mr. Crabbe asked Mr. Seger if he could comment on why the process took so long from the control date implementation to the final decision in 2008.

Mr. Seger replied that the program is a very complex one. We started out looking at individual processing quota as well as harvesting quota. That in itself required some additional effort and work. We’re looking at a program that covers over 80 species; at alternatives that were not only for individual fishing quotas but for permit stacking; at trying to figure out how many trawl sectors we were going to have; at how this interacted with other parts of the commercial fishery; and at whether this should be extended to other parts of the commercial fishery. So, there were a lot of basic broad-level policy questions to deal with right from the start in addition to the need to develop the details of the program. This took quite a bit of time and a lot of meetings. The environmental impact statement contains a list of meetings which makes it clear that there were continuous working group meetings. There were groups on enforcement, independent review, data, and so forth. The effort was not only about designing the program, but about getting it to mesh with the data system and changing the data system, for example, the modifications of the observer program. On top of all this was the Trawl Individual Quota Committee (TIQC) that did
most of the heavy lifting designing the program. He concluded by indicating that there was much more involved than indicated in this brief rendition.

Mr. Crabbe wondered if there was ever a period of time where the program stopped and if you thought it might not happen, or was it a steady process?

Mr. Seger responded that there was never a time when staff work stopped or Council intent indicated a halt to the program.

Mr. Crabbe asked if the control date ever came up again considering how long the program was taking to develop.

Mr. Seger responded that he could not specifically remember, but noted that the Council had received testimony that somebody had listened to all of the tapes from the November 2008 meeting to see if any members of the public expressed concern about it. The conclusion of the review was that nobody expressed concern.

Mr. Anderson recalled that in 1987 a control date was set for the limited entry program for the groundfish fishery, there was a discrepancy with the filing of the date which resulted in it being filed as a 1988 date, and the limited entry program did not go into effect until 1994.

Mr. Seger confirmed that Mr. Anderson’s information was correct.

Ms. Lowman asked if there were any challenges to that program due to the length of time between the control and implementation dates.

Mr. Seger responded that a lawsuit was brought by some factory trawlers who came down from the north and entered into the fishery after 1988, but before the implementation date, contending that they needed to be taken into account as participants in the fishery. The factory trawlers did not prevail.

Dr. McIsaac asked Mr. Seger for further information concerning public comment that referenced other control dates for the Pacific Council on individual quota matters (1991 and 1999), and some other councils’ control dates that were changed with regard to being stale or out of date.

To the best of his knowledge, Mr. Seger reviewed the changes for the other regional councils, which, unlike our IFQ program, generally involved some hiatus in the work to implement the programs.

Regarding the Pacific Council sablefish IFQ date of 1991, the Council immediately began work and proceeded through 1995 when they ran into the moratorium and work stopped. Later we moved to the tier system. He referenced other information on control dates, available in the current EA on page 155, which were adopted with respect to the American Fisheries Act. In that case, there was a hiatus and change in the work and a new control date was later established.
Chairman Wolford opened the floor to statements by Council members concerning the public comments.

Mr. Lockhart noted that NFMS has not made a decision on the control date issue, and will not, until reviewing all of the documentation and the record developed here.

Mr. Myer commented on the talk and debate about whether the fishery was overcapitalized. He believes the whiting fishery has been overcapitalized since at least 2000 or earlier. The Groundfish Strategic Plan, written in 2000, stated that the whiting industry was in imminent overcapitalization. Amendment 15 and Amendment 20 were also about overcapitalization. When we started Amendment 20 there were committees made up of all stakeholders and many of the plaintiffs participated in the meetings and there were a lot of goals and objectives; there wasn’t going to be any big winners or losers and this is what we came up with when we determined our current status quo. I believe that it would be unfair and inequitable to deviate from status quo and we should defend that.

Mr. Anderson reflected that this is in many ways a sad day when thinking about what all the industry has been through since 1987, his first year on the Council. A meeting held in 1996 was devoted to fixing the groundfish fishery, including overcapitalization. There also was the buyback program and now the IQ program. He was especially proud of the work industry did in November 2008 to come up with the approach a majority could support, which has now been almost maligned as a political compromise that shouldn’t be used. The approach was formed by a diverse group with a plan that they developed. He said he isn’t sure of any other process that could be determined as fair and equitable as this. His concern is to make sure that we maintain the integrity of the program and it accomplishes its goals and objectives and survives the scrutiny NFMS applies, recognizing it is consistent with MSA guidelines and we can have a record that demonstrates how this program complies with MSA and applicable laws.

Mr. Steve Williams observed it is obvious that a lot of effort and work has gone into developing the information for us to use to make our decisions and it will be part of a record that the judge can see and recognize its value. He thanked those who provided the information.

Mr. Groen observed that the process has been very open and transparent, and secondly, industry has worked together really well and consensus was reached and supported this decision. We dealt with a very complex issue with a very cooperative effort. He believes going past the 2008 control date would be very arbitrary. The date needs to be taken very seriously. If we lose the trust in that, a lot of critical management issues will arise.

Ms. Vojkovich was impressed with the amount and detail that was contained in the public testimony. She also noticed that there wasn’t one individual who said they wanted to return to the open access fishery. To a person, they said that the program was working and that everyone has already seen benefits to a program that has only been in place for a little over a year and a half. It was very important to get verification that the basis of how we are approaching this program and the goals and objectives are solid.
Dr. Hanson said he has been involved in a number of rationalization programs and knew we were in for a long and rocky ride to get this program in place. He believes it is the most complex program developed under the Magnuson Act in the United States. With the number of species, the number of overfished species, the diversity in the fleet, he wasn’t surprised that it took as long as it did. In fact, if you will recall, NMFS had to call in a number of staff from other regions and headquarters to help with this effort because we didn’t have the level of staffing needed to do that plus our other tasks. In fact, some other tasks slipped to keep this project in place. He has never seen the level of support from industry in the other programs that he has been involved in that he has seen here.

Ms. Lowman agreed with the points made by Dr. Hanson. While the difference between any of the alternatives have very little difference in net benefits for the nation, if we had not had a clear commitment to this control date, we would have lost net benefits to the program in the intervening years while putting it together. We had a lot of testimony about how behavior would have been considerably different. We would have had some conservation problems with running over some very sensitive bycatch levels. It’s an important consideration for future programs in terms of net benefits for the nation and having some sense that you aren’t going to create a situation where people are racing for history. She was impressed with the fact that, in general, even though we created something which had no big winners and losers, moving some of the allocations one way or the other would make some different losers and winners; and yet a majority of people have stayed strongly in support of status quo. Finally, she noted the complexity of what NMFS had to do to get this program reviewed, approved, and in place. She noted the imposition of a new National Standard that required us to do ACLs and a whole new and different way of doing business on top of our usual biennial specifications process. She reflected back on how hard inseason management used to be, as opposed to these short times we have now. The Council took the effort to try to make a substantial difference to the fishery and got all these other things done.

Mr. Wolford observed that we need to address the pros and cons of the issue, but no particular outcome is mandated. That allows us to deal with the merits of what’s on the table before us today, based on our legal mandate through the Magnuson Act. The program has to have value to the nation and must be fair and equitable, and Mr. Walsh raised the issue of dependency. Other compelling factors were to stop the race for fish that was contributing to excessive bycatch and shutting down the fishery early, and to reduce the capacity of the fleet. Those are issues that we addressed in our program objectives as we put it together and the use of a control date was critical to achieving those objectives. Many of the people testified today that a business decision that actually runs counter to the objectives of the program should not be rewarded, and he certainly believes that’s true.

He looked at the alternatives to see if any of them really maximize the utility to the nation, and how do you measure that—dollars to the fleets or to the communities? Are there differences in the resource conservation issues and the potential disruption among the current fleet? Does one of the alternatives allow for more fishing opportunities in and among some of the sectors than others? The EA does a really good job of exploring all of that and laying it all out. And yet, none of the options jump out to me as standing out. The primary difference is who gets what in
the allocation. Taken as a whole, the differences are small. There’s really no difference or clear winner in maximizing the benefits to the nation.

Fair and equitable in the National Standards does not mean that everybody must win. It recognizes that there will be winners and losers in this arena, but that no one should be significantly favored or disfavored without some credible rationale; and it recognizes that this is a judgment call. The control rules specified a set of dates under which allocation would take place, and that activity outside of those dates may not be considered. It doesn’t mandate that they can’t be considered. It is simply an alert that they are at risk if they make business decisions contrary to the specifics of the rule. That’s a two-edged sword. It says that there are known risks if you operate outside the criteria and that there is an expectation that if you stay within the criteria there will be rewards. Those two factors ought to influence people's business decisions one way or the other. They are free to make their business choices, whether through gaming the system or to just pursue a lucrative business opportunity, the motive isn’t the issue here. The issue is that a rule is in place and that there were potential risks if it was not followed, and those risks were known and they needed to be factored into the business decisions.

Bud Walsh spoke to the issue of dependency, but I can’t figure out dependency from the data that we’ve got here. There was a lot of testimony today about what constitutes dependency and it was more than just recent participation as evidenced by landings. Dependency is a complex issue and it was not just a simple look at the table and here’s your dependency. So, I keep coming back to the control rule, the fact that it was in place, that there would be rewards for staying within it and you would not be rewarded for going outside it. To change the control rule after the fact, not during the discussions, but after the fact, strikes me as patently unfair.

[Council break from 2:54 p.m. to 3:00 p.m.]

H.7.d Council Action: Adopt a Final Preferred Catch Share Allocation (9/18/2012; 3:00 p.m.)

Chairman Wolford noted that we have two business elements that we need to take care of. One is to address the preferred alternative of the allocation time periods, and then we need to worry about the divestiture issues.

Mr. Williams moved and Mr. Feldner seconded Motion 22 that the Council adopt as its final preferred alternatives for the time periods used for initial whiting catch share allocation the following:

Years used for history based allocation for whiting trips:

Mr. Williams stated the Magnuson-Stevens Act provides a number of guidance points for us. In particular, Section 303A(c)(5) says that in developing a limited access program (LAP) we’re to establish procedures to ensure fair and equitable initial allocations, including consideration of four elements. Consider means to take into account and weigh carefully the pros and cons of an
issue before making a decision. He firmly believes that’s what we’re doing here today and did in 2008 when we made our final decision. The Council has been provided with information that is appropriate and complete with regard to our ability to make decisions and weigh information carefully. One of the key elements of a LAP program is a control date. The establishment of a control date in 2003 for harvesters and 2004 for processors provided a clear message that we’re taking action to control overcapitalization in the fishery and that individuals should not increase their participation with the expectation they would be rewarded. Failure to set a control date would have encouraged the race to fish for catch history and we heard people today testify to the fact that some would have made that choice, some did. When we made the decision for our control dates, we considered multiple years of fishing history. We looked at all of that and in the end, the Council did not arbitrarily exclude any years. The Council looked at all that information and chose to come up with the control dates that we had.

Mr. Williams continued by stating another piece of the consideration was regarding staleness of the control date. Mr. Seger’s review of some delays that resulted in staleness indicated they had some kind of a stop or a break in activity, especially if the break was very long. We didn’t have that in our development of this program, it was continuous. One more reason for the value of the control date is in regards to someone taking the opportunity to increase their effort. That opportunity is likely there because some people made choices not to participate more when they could have. Disruption is another important point. We spent a lot of time trying to create as little disruption as possible in the distribution of the fishery. After the two years of implementation we have here, the disruption that would be caused now could be quite severe. We could again see movement of jobs within and between the states and this would be a major issue for a number of communities up and down our coast as well as harvesters. The GAP statement said that upending the plan would create significant instability and jeopardize the benefits already occurring in the fishery. They went even further to raise the issue about harmful impacts to other fisheries across the country. My bottom line on all of this is that by making a decision other than maintaining the status quo, we would be rewarding individuals that increased participation when it was actively discouraged by the Council, and punishing those that followed our guidance.

Mr. Anderson asked Mr. Williams if the motion is meant to reflect the status quo or no action alternative.

Mr. Williams replied yes.

Mr. Anderson said that the history of the shoreside processors, as listed, is incorrect for the no action status quo and should be 1998 to 2004.

Mr. Anderson moved and Ms. Lowman seconded (Amendment 1) to amend the motion for whiting processors to be a shoreside history base qualifying period of 1998 to 2004.

Mr. Anderson stated the amendment retains the intent to have a no action alternative.

Amendment 1 carried. (Mr. Myer recused, Mr. Lockhart abstained).
Mr. Anderson stated his support for the motion. He believes that after reviewing all the material and analysis, particularly concerning the fairness and equity of the allocation of the initial quota shares, as it relates to recent participation and dependence on the fishery, that the integrity of this policy process calls for the Council’s original decision to be re-explained to the court. He was concerned about the uncertainty surrounding our policy authority on this matter and the potential risk that additional litigation poses to the IFQ and mothership co-op programs.

Mr. Anderson said he thinks the status quo alternative is the most fair and equitable given the unique set of circumstances surrounding the developmental steps of this program and the clear and consistent communications from this Council to the industry that would be affected. The policy process embodied in the Magnuson-Stevens Conservation and Management Act entrusted Regional Councils to make conservation and management decisions for the nation’s fisheries. In this policy process, it is the Council’s purview to determine what is best, as long as it is done consistently with the Magnuson-Stevens Act and the NOAA guidance on LAP programs and other applicable law. From the Council, the burden shifts to the NMFS consistency review of Council recommendations. In conducting such reviews, NMFS should not seek to substitute the Council’s view of what is best with the agency’s view of what might be better policy. Instead, the consistency review should be a more narrowly-focused determination of whether the Council’s recommendation was permissible or not. That is to say, whether the recommendation was consistent with the Magnuson-Stevens Act and other applicable law. In reviewing the court’s written rationale for ordering this reconsideration, the judge reached its conclusion based on an incomplete understanding of the Council’s policy reasoning. The court has asked questions in the summary judgment order that I think can be answered, justified, and defended.

While Mr. Anderson believes the rationale was there at the time the decision was made in 2008, the Council’s administrative record may have left a lot to be gleaned from reading between the lines. Those few sentences in the court documents may have been all that could be gleaned from the administrative record. But now, we’ve had an opportunity to review, not only the information that we had at the time we made the decision in November of 2008, but additional information as well. He believes that we have a solid foundation for this decision.

Mr. Anderson spoke to the specific questions raised by the court. His understanding is that this reconsideration was ordered for two primary reasons. First, the Council used two different end dates in the allocation formulas for harvesters and processors. The Court did not understand why. Second, the court questioned the age of the control date itself. The question is how those end dates could be six or seven years earlier than the start of the IFQ and co-op programs in 2011 and still have been consistent with the Magnuson-Stevens Act instruction to consider current harvest and the fair and equitable allocation of limited access harvesting privileges. The issues of different end dates for harvesters and processors was the one the Court pointed to in ordering this reconsideration. The Court said that “most problematic” in the view of the Court was the Council’s “explanation of why the qualifying period for processors was extended to 2004.” The explanation given to the Court was that “the extension to 2004 was made to benefit a single processor.” The Court responded to this by saying that the explanation “begged the question of why the particular processor should benefit not withstanding an earlier control date when others should not.” The Court also observed that the allocation period for the processors was chosen as
“a result of a compromise arrived at during industry negotiations.” This, the Court stated, undermined any arguments that the defendant’s decision-making was free from a political compromise. At the same time, the Court approved the Council’s reasoning for the years 2003 through 2006 in the allocation formula for bycatch stocks to the non-whiting permits. Even though those dates also went beyond the control date, the Court understood the reason for doing so was the implementation of the rockfish conservation areas and the desire to have the allocation reasonably reflect recent fishing patterns for the bycatch species. At the same time, the Court found it “questionable” that the Council had that objective of reflecting recent patterns in the fishery but then “did not appear to have undertaken the same analysis for Pacific whiting.” The Court was skeptical that the whiting allocation formulas reasonably reflected recent patterns in the fishery, given the shift in landings toward Washington after 2003.

Mr. Anderson continued that the Court also noted five new whiting buyers had entered the fishery after 2004 with the government making “no argument as to why it was rational for them to exclude those new entrants.” The Court also observed that there did “not appear to be any evidence, for example, that these new entrants engaged in speculation when they entered the market after the announced control date.” The main purpose, from my perspective, of the allocation to processors was not to reflect recent fishing patterns. Instead, the Council’s allocation for processors was chosen based on the significant investments that have been made in reliance upon the pre-Amendment 20 management system. Looking to the possible disruption that would result from the major transition to the new regulatory system, the Council intended the allocation of harvesting quota to processors as a means of giving some consideration and a measure of stability to those processing businesses that had built themselves up and invested under the old system. This is why the window period differed from the harvester window period, not just in its end date, but in its start date as well. There were concerns at the time that the new system would lower the value of investments and place businesses at risk by changing the timing of the fishery and the balance of bargaining power between harvesters and processors. The period 1998 through 2004 was chosen as an equitable reflection of the investment that has been made. I think the testimony today substantiated this decision and the reasons behind the difference in the control date and the qualifying period for processors.

Given the control date established by the Council for processors, Mr. Anderson stated that businesses that entered the processing sector or made investments after 2004 did so with a degree of risk. Expectations about the fishery had changed after 2004. Investments could no longer be made under the expectation that the management system would remain constant. The processing business that was the primary beneficiary of extending the date to 2004 argued in June of 2012 that years beyond 2007 had to be considered because, by not doing so, it would fail to recognize the “most significant investments” made in the fishery. That may be so, and we agree with their position that the investments the company has made over the last decade and the marketing initiatives they have accomplished have contributed to the value of the fishery. Their business initiative has benefited Westport and the state. After 2004, processing businesses knew that the derby style fishery was likely to end. Landings might be spread out longer over the year and that the fleet could consolidate. We do not expect businesses to stop investing or attempting to earn profits. Yet those investments are made based on their best business judgment and about the future, including risks.

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The Council did not have to offset the potential loss in value and provide some degree of stability to established processing businesses with Amendment 20, but chose to do so as a matter of policy. By contrast, the Council decided the existing non-whiting processing businesses would not need program protection to have a stable business environment. Both choices are fair and equitable. The Council had very good reasons for rationalizing the fisheries, yet recognized that changes would impact existing business. There is a consideration of fairness underlying the policy. It was reasonable for that policy to favor investments that were made in the derby style fishery before the control date signaled the possible change in the regulatory system.

To the Court's observation that there was no evidence that the entrants engaged in speculation, I would reply that control dates are preemptive tools meant to signal that speculation will not be rewarded. It is the prospect of speculation that creates the concern. Whether speculation would have been worse had no control date been issued is a question we cannot answer except based on the theory that the incentive was there. The more salient point to me is not whether these businesses speculated or not, it is the fact that they entered the fishery in a time where it was known that the regulatory scheme was changing. As the 2011 experience showed through the testimony we heard, the processing business does not need quota to be successful in this fishery.

Amendment 20 was deliberated for years based on thousands of pages of analysis, meetings, recommendations of the Groundfish Allocation Committee, the TIQC, the GAP, the SSC, and so on. By November of 2008, every issue had been thought through in detail and we have had an opportunity to review that again, including information and data that’s come since then. We were satisfied that the processor and harvester allocations were fair and equitable then, and I’m satisfied that the provisions of the program continue to be fair and equitable today. It did not treat the post-2003 or 2004 entrants the same, yet as I explained there were good reasons for that.

It is important to note the Court upheld the procedural validity of the Council’s control date, finding that the plaintiff’s challenge had “no merit.” The Court’s discussion of this issue showed good understanding of basic policy reasons for employing and maintaining control dates.

Now, regarding the reasonableness of the control date, the best the Council can do is to fully articulate an interpretation of the policy discretion afforded to us by Congress and, as part of that, fully explain how it was reasonable under the circumstances to exclude years beyond 2003 for harvesters and 2004 for shore-side processors in the allocation formulas for whiting.

There are two major factors for addressing the matter. The first would be the one mentioned by the Court that is “factual complexity” of the program and its design, review, and implementation. The complexity goes well beyond writing regulations. It involves allocation of the target species, which we hadn’t even done at the time that we set the control dates, and sorting through possible alternatives through the implementation of enforcement and monitoring programs to give effect to the final regulations and accomplish our conservation objectives. I also think the high degree of controversy surrounding the development of this program is another complexity and why it took longer than other programs that perhaps the Court was made aware of. More controversial programs tend to take more time to develop because of the need to analyze and
consider information and weigh and address the various concerns. Likewise, I would place the significance of the proposed change and the severity and uncertainty of the potential consequences in the complexity category as well. The more substantial the change and the more severe and uncertain the consequences for the fishery participants and fishing communities, the more time and information decision-makers will want, to ensure their decision is sound and made in awareness of the likely consequences.

Finally, an additional concern has to do with the conservation concerns and the connection to the control date. The concern is that speculative fishing behavior can have adverse impacts on conservation and management objectives. Speculation creates more participation and can worsen the biological and social economic problems created by overcapacity. This factor connects the fair and equitable standards to the broader conservation and management context. That connection is required by the Magnuson-Stevens Act under National Standard 4 and the guidelines that NMFS issued interpreting that standard. National Standard 4 requires allocations to be “reasonably calculated to promote conservation.” The National Standard 4 guidelines then advised that “an allocation of fishing privileges should be rationally connected to the achievement of the optimum yield or with the furtherance of legitimate fishery management plan objectives.” This standard and guidance are focused on the long-term conservation and management objectives, whereas the effects of speculation last only until the allocation is finalized. Nonetheless, it should be recognized that speculation incentive created by proposed allocations can be severe enough to place real pressures on conservation and management objectives during the development and implementation of the limited entry program. He cited an enforcement action on July 17, 2007 that illustrated the point that even with the control date, the temptation is there to speculate and try to build catch history and disregard conservation.

In sum, the reasonableness of a particular control date is based on an examination of how consideration of the current participation weighs against the characteristics of the program design and implementation issues. The broader conservation and management context is in the fairness to those that obeyed the control date - inevitably the decision is one that leaves much judgment about what is most fair and equitable. Mr. Anderson submitted that the motion that’s on the floor is the most fair and equitable, and particularly in consideration of the testimony we heard yesterday and again today about the repercussions of changing the qualifying periods for any of these sectors.

Mr. Sones stated he would abstain from the vote. He did support the 2008 decision and control dates, and felt, at the time, that this was a very critical part of the LAP program, to control participation and the race to fish after that date. The Tribes felt that this was an important conservation act that the Council had taken and he is pleased to see that it has been implemented. However, he sees this decision today as more about allocation issues and less an issue of conservation, although he believes if we don’t respect control dates it will have impacts on where things go in the future. So, for those reasons, he is abstaining from the vote.

Ms. Lowman expressed agreement with the statements of Mr. Williams and Mr. Anderson. She added that part of her decision was her conclusions about why there were a number of permits that seemed to not be used at all after 2003. The supplemental analysis in Attachment 3 provided
the rationale. They weren't being used, but they were part of an investment package by fisherman who wanted to use those permits to increase their amount of harvest if their history was not sufficient. The other thing that factored into her fair and equitable decision was the fact that while this is all about whiting, our program has a sector that is both whiting and non-whiting. To have different dates for one part of the same sector than the other part doesn’t seem fair.

Mr. Crabbe wanted to add that he was compelled by the number of fisherman who would have been winners under either Options 3 or 4 and they did not come out in support of those options. Some of them even spoke in favor of status quo. He indicated his support for the motion.

Mr. Feldner also expressed support for the motion. He believes the eyes of the nation are on us here and the way we deal with this is going to affect future limited entry programs. He also expressed his appreciation for the way the Council and industry worked together on this and other endeavors and the need for control dates and preventing a race for fish and increased bycatch.

Mr. Lincoln commented that he will be supporting the motion based on his agreement with much of the previous Council member testimony. He noted that it appeared that more people would be negatively impacted than would benefit from moving the control dates.

Ms. Vojkovich expressed her perspective as a lifelong public servant in allocating public resources. It has always been very important to look at what the greatest good is. The Council decision needs to be based on how it affects the industry as a whole, our fishing communities up and down the coast, our fishing businesses and communities in the nation. She agreed with all of the other good comments by fellow Council members and supports this motion as the right decision.

Mr. Wolford expressed his support of the motion and stated that his previous statements were applied to this motion.

Mr. Pollard noted the excellent testimony already provided in support of the motion and can’t imagine that a reasonable and prudent person with this weight of information would make a decision other than to support the motion.

Mr. Groen likewise noted his support for the motion based on his previous comments.

Motion 22, as amended, carried (Mr. Lockhart and Mr. Sones abstained, Mr. Myer recused).

Mr. Anderson stated that there are two more items for the Council to consider: the quota share transfer and divestiture periods; and the mothership catcher vessel severability. He moved and Mr. Lincoln seconded Motion 23 to be consistent with the recommendations made in Agenda Item H.7.b, Supplemental NMFS Report 2, I move that we reinstate:

1. The quota share (QS) transfer and divestiture periods for the shoreside IFQ sector – to begin on January 1, 2014, with the deadline to divest extended to December 31, 2015.
2. Mothership/catcher vessel (MS/CV) severability – to begin on September 1, 2014, with a delay of the deadline to divest extended to August 31, 2016.

Mr. Anderson stated the intent of the motion is to allow NMFS adequate time to implement the necessary quota share transfer rules and regulations, as well as the programming necessary to allow online transfers of quota share. Intent is also to allow NMFS adequate time to implement regulations that coincide with the annual permit renewal process.

Motion 23 carried (Mr. Myer recused).

[Council concluded this agenda item at 3:55 p.m. and broke until 4:03 p.m.]

I. Open Comment Period (9/18/2012; 4:13 p.m.)

I.1 Comments on Non-Agenda Items

Agenda Item I.1, Open Comment 1: Fixed Gear Needs a Bigger Share.
Agenda Item I.1, Open Comment 2: Safety Concerns Relating to the Observer Program for Nearshore Fixed Gear Vessels.
Agenda Item I.1, Open Comment 3: Letters of Support of Forage Fish Conservation.
Agenda Item I.1, Supplemental Open Comment 4: Additional Letters of Support of Forage Fish Conservation (Web Only).

I.1.a Reports and Comments of Advisory Bodies and Management Entities

None.

I.1.b Public Comment

None.

I.1.c Council Discussion of Comments as Appropriate

None.

ADJOURN

The Council adjourned September 18, 2012 at 6:10 p.m.

Dan Wolford
Council Chairman

March 11, 2013
Date