

**MINUTES**  
Pacific Fishery Management Council  
Seattle Marriott Hotel SeaTac  
3201 South 176th Street, Seattle, WA 98188  
Telephone 206-241-2000  
April 2-6, 2007

<b>A.</b>	<b><i>Call to Order</i></b>	<b>5</b>
<b>A.1</b>	<b>Opening Remarks, Introductions</b>	<b>5</b>
<b>A.2</b>	<b>Roll Call</b>	<b>5</b>
<b>A.3</b>	<b>Executive Director's Report</b>	<b>5</b>
<b>A.4</b>	<b>Council Action: Approve Agenda</b>	<b>5</b>
<b>B.</b>	<b><i>Enforcement Issues</i></b>	<b>6</b>
<b>B.1</b>	<b>Fishery Enforcement Activity Report</b>	<b>6</b>
B.1.a	Agenda Item Overview	6
B.1.b	Annual U.S. Coast Guard Fishery Enforcement Report	6
B.1.c	Reports and Comments of Advisory Bodies	6
B.1.d	Public Comment	6
B.1.e	Council Discussion	6
<b>C.</b>	<b><i>Administrative Matters</i></b>	<b>6</b>
<b>C.1</b>	<b>Future Council Meeting Agenda Planning (04/02/07; 4:08 pm)</b>	<b>6</b>
C.1.a	Agenda Item Overview	6
C.1.b	Reports and Comments of Advisory Bodies	7
C.1.c	Public Comment	7
C.1.d	Council Discussion of Future Council Meeting Agenda Topics	7
<b>C.2</b>	<b>Magnuson-Stevens Act Reauthorization Implementation (04/03/07; 2:51 pm)</b>	<b>7</b>
C.2.a	Agenda Item Overview	7
C.2.b	NMFS Comments	7
C.2.c	Reports and Comments of Advisory Bodies	7
C.2.d	Public Comment (04/03/07; 4:16 pm)	7
C.2.e	Council Action: Direct Planning and Action on New Requirements as Needed for Timely Implementation (04/03/07; 5:06 pm)	8
<b>C.3</b>	<b>Approval of Council Meeting Minutes (04/04/07; 8:07 am)</b>	<b>10</b>
C.3.a	Council Member Review and Comments	10
C.3.b	Council Action: Approve Council Meeting Minutes	10
<b>C.4</b>	<b>Appointment to Advisory Bodies, Standing Committees, and Other Forums, and Changes to Council Operating Procedures (COP) as Needed (04/04/07; 8:08 am)</b>	<b>10</b>
C.4.a	Agenda Item Overview	10
C.4.b	Reports and Comments of Advisory Bodies	10
C.4.c	Public Comment	10
C.4.d	Council Action: Consider Changes to COP and Appoint New Advisory Body Members as Needed	10
<b>C.5</b>	<b>Ecosystem Fishery Management Plan (04/04/07; 8:25 am)</b>	<b>11</b>
C.5.a	Agenda Item Overview	11
C.5.b	Agency and Tribal Comments	12
C.5.c	Reports and Comments of Advisory Bodies	12

C.5.d	Public Comment _____	12
C.5.e	Council Guidance and Direction on Future Planning _____	12
<b>C.6</b>	<b>Legislative Matters (04/05/07; 3:04 pm) _____</b>	<b>14</b>
C.6.a	Agenda Item Overview _____	14
C.6.b	Legislative Committee Report _____	15
C.6.c	Reports and Comments of Advisory Bodies _____	15
C.6.d	Public Comment _____	15
C.6.e	Council Discussion _____	15
<b>C.7</b>	<b>Council Three-Meeting Outlook, June 2007 Council Meeting Agenda, and Workload</b>	
<b>Priorities (04/06/07; 4:37 pm) _____</b>		<b>15</b>
C.7.a	Agenda Item Overview _____	15
C.7.b	Reports and Comments of Advisory Bodies _____	15
C.7.c	Public Comment _____	15
C.7.d	Council Guidance on Three Meeting Outlook, June 2007 Council Agenda, Council Staff Workload, and Priorities for Advisory Body Consideration _____	16
<b>D.</b>	<b>Open Public Comment _____</b>	<b>17</b>
<b>D.1</b>	<b>Comments on Non-Agenda Items (04/02/07; 4:53 pm) _____</b>	<b>17</b>
D.1.a	Public Comment _____	17
D.1.b	Council Discussion of Comments as Appropriate _____	17
<b>E.</b>	<b>Groundfish Management _____</b>	<b>17</b>
<b>E.1</b>	<b>National Marine Fisheries Service (NMFS) Report (04/03/07; 8:07 AM) _____</b>	<b>17</b>
E.1.a	Regulatory Activities _____	17
E.1.b	Science Center Activities, Including 2006 Workshop Reports _____	18
E.1.c	Reports and Comments of Advisory Bodies _____	19
E.1.d	Public Comment _____	19
E.1.e	Council Discussion _____	19
<b>E.2</b>	<b>Consideration of Inseason Adjustments (04/04/07; 1:40 pm) _____</b>	<b>19</b>
E.2.a	Agenda Item Overview _____	19
E.2.b.	Report of the Groundfish Management Team (GMT) _____	20
E.2.c	Agency and Tribal Comments _____	20
E.2.d	Reports and Comments of Advisory Bodies _____	20
E.2.e	Public Comment _____	20
E.2.f	Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2007 Groundfish Fisheries _____	20
<b>E.3</b>	<b>Amendment 15: American Fisheries Act _____</b>	<b>20</b>
E.3.a	Agenda Item Overview (04/05/07; 8:17 am) _____	20
E.3.b	ODFW Report _____	20
E.3.c	Reports and Comments of Advisory Bodies _____	21
E.3.d	Public Comment _____	21
E.3.e	Council Action: Consider Preliminary Alternatives for Analysis _____	22
<b>E.4</b>	<b>Final Consideration of Inseason Adjustments (if Needed) _____</b>	<b>23</b>
<b>F.</b>	<b>Habitat _____</b>	<b>23</b>
<b>F.1</b>	<b>Current Habitat Issues (04/03/07; 9:13 am) _____</b>	<b>23</b>
F.1.a	Report of the Habitat Committee _____	23
F.1.b	Reports and Comments of Advisory Bodies _____	25
F.1.c	Public Comment _____	25
F.1.d.	Council Action: Consider Habitat Committee Recommendations _____	25
<b>G.</b>	<b>Salmon Management _____</b>	<b>25</b>

<b>G.1</b>	<b>NMFS Klamath River Coho Recovery Plan (04/03/07; 9:41 am)</b>	<b>25</b>
G.1.a	Agenda Item Overview	25
G.1.b	NMFS Report	25
G.1.c	Agency and Tribal Comments	25
G.1.d	Reports and Comments of Advisory Bodies	25
G.1.e	Public Comment	25
G.1.f	Council Discussion	25
<b>G.2</b>	<b>Tentative Adoption of 2007 Ocean Salmon Management Measures for Analysis</b>	<b>26</b>
G.2.a	Agenda Item Overview (04/03/07; 9:59 am)	26
G.2.b	Update on Estimated Impacts of March 2007 Options	26
G.2.c	Summary of Public Hearings	26
G.2.d	U.S. Section of the Pacific Salmon Commission Recommendations	26
G.2.e	North of Cape Falcon Forum Recommendations	26
G.2.f	NMFS Recommendations	26
G.2.g	Tribal Recommendations	26
G.2.h	State Recommendations	27
G.2.i	Reports and Comments of Advisory Bodies (04/03/07; 1:12 pm)	27
G.2.j	Summary of Written Public Comments	28
G.2.k	Public Comment (04/03/07; 1:45 pm)	28
G.2.l	Council Action: Tentatively Adopt Management Measures for 2007 Ocean Salmon Fisheries	28
<b>G.3</b>	<b>Methodology Review Process and Preliminary Topic Selection for 2007 (04/04/07; 11:18 am)</b>	<b>29</b>
G.3.a	Agenda Item Overview (04/04/07; 11:08 am)	29
G.3.b	Scientific and Statistical Committee Report	29
G.3.c	State, Tribal, and Federal Agency Recommendations	29
G.3.d	Reports and Comments of Advisory Bodies	29
G.3.e	Public Comment	30
G.3.f	Council Guidance on Potential Methodologies to Review in 2007 (04/04/07; 1:10 pm)	30
<b>G.4</b>	<b>Clarify Council Direction on 2007 Management Measures (if Needed) (04/04/07; 2:34 pm)</b>	<b>30</b>
G.4.a	Agenda Item Overview	30
G.4.b	Report of the Salmon Technical Team (STT)	30
G.4.c	Reports and Comments of Advisory Bodies	31
G.4.d	Public Comment	31
G.4.e	Council Guidance and Direction	31
<b>G.5</b>	<b>Final Action on 2007 Salmon Management Measures</b>	<b>32</b>
G.5.a	Agenda Item Overview (04/06/07; 8:04 am)	32
G.5.b	STT Analysis of Impacts	32
G.5.c	Agency and Tribal Comments	32
G.5.d	Reports and Comments of Advisory Bodies	33
G.5.e	Public Comment	33
G.5.f	Council Action: Adopt Final Measures	33
<b>H.</b>	<b><i>Pacific Halibut Management</i></b>	<b>34</b>
<b>H.1</b>	<b>Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries</b>	<b>34</b>
H.1.a	Agenda Item Overview (04/04/07; 10:43 am)	34
H.1.b	State, Tribal, and Federal Agency Recommendations	34
H.1.c	Reports and Comments of Advisory Bodies	34
H.1.d	Public Comment	34
H.1.e	Council Action: Adopt Final Annual Incidental Halibut Harvest Restrictions	35
<b>I.</b>	<b><i>Marine Protected Areas</i></b>	<b>35</b>
<b>I.1</b>	<b>Review of Oregon Ocean Policy Advisory Council (OPAC) Report</b>	<b>35</b>

I.1.a	Agenda Item Overview (04/05/07; 11:15 am)	35
I.1.b	Reports and Comments of Advisory Bodies	35
I.1.c	Public Comment	35
I.1.d	Council Action: Approve Comments for Submission to OPAC	35
<b>J.</b>	<b><i>Highly Migratory Species Management</i></b>	<b>37</b>
<b>J.1</b>	<b>NMFS Report (04/06/07; 8:56 am)</b>	<b>37</b>
J.1.a	Southwest Region Activity Report	37
J.1.b	Southwest Fishery Science Center Report	37
J.1.c	Reports and Comments of Advisory Bodies	38
J.1.d	Public Comment	38
J.1.e	Council Discussion	38
<b>J.2</b>	<b>Exempted Fishing Permit (EFP) for Longline Fishing in the West Coast Exclusive Economic Zone</b>	<b>39</b>
J.2.a	Agenda Item Overview (04/06/07; 9:35 am)	39
J.2.b	NMFS Report	39
J.2.c	Reports and Comments of Advisory Bodies	39
J.2.d	Public Comment	39
J.2.e	Council Action: Adopt a Preferred Alternative for the Longline EFP	40
<b>J.3</b>	<b>Albacore Fishing Effort Characterization</b>	<b>42</b>
J.3.a	Agenda Item Overview (04/06/07; 1:39 pm)	42
J.3.b	Southwest Fishery Science Center Report	42
J.3.c	Reports and Comments of Advisory Bodies	42
J.3.d	Public Comment	43
J.3.e	Council Action: Take final Action to Adopt, or Adopt for Public Review, a Characterization of Historical U.S. North Pacific Albacore Fishing Effort	43
<b>J.4</b>	<b>Yellowfin Tuna Overfishing</b>	<b>43</b>
J.4.a	Agenda Item Overview (04/06/07; 2:54 pm)	43
<b>J.5</b>	<b>COP for Making Highly Migratory Species Recommendations to Regional Fishery Management Organizations</b>	<b>44</b>
J.5.a	Agenda Item Overview (04/06/07; 3:05 pm)	44
J.5.b	Reports and Comments of Advisory Bodies	44
J.5.c	Public Comment	44
J.5.d	Council Action: Adopt COP for Public Review and Make Related Recommendations	44
<b>J.6</b>	<b>Council Recommendations on Conservation Measures to be Considered by the Inter-American Tropical Tuna Commission (IATTC)</b>	<b>45</b>
J.6.a	Agenda Item Overview (04/06/07; 4:10 pm)	45
J.6.b	Reports and Comments of Advisory Bodies	45
J.6.c	Public Comment	45
J.6.d	Council Action: Identify Recommendations to the U.S. Delegation to the IATTC on Measures to Conserve Bigeye and Yellowfin Tuna	45
	<b>ADJOURN</b>	<b>46</b>

## **A. Call to Order**

### **A.1 Opening Remarks, Introductions**

Mr. Don Hansen, Chair, called the 188<sup>th</sup> meeting of the Pacific Fishery Management Council to order on Monday, April 2, 2007 at 3 pm.

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

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

Mr. Phil Anderson (Washington State Official)\* Not present for roll call  
Mr. Mark Cedergreen (Washington Obligatory)  
Ms. Kathy Fosmark (California Obligatory)  
Mr. Donald Hansen, Chairman (At-Large)  
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region)  
Mr. Jerry Mallet (State of Idaho Official)  
CDR Peter Martin (US Coast Guard, non-voting)  
Mr. Curt Melcher (State of Oregon Official)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At- Large)  
Mr. Dave Ortmann, Vice Chairman (Idaho Obligatory)  
Mr. Tim Roth (US Fish and Wildlife Service, non voting)  
Mr. David Sones (Tribal Obligatory)  
Mr. Roger Thomas (At-Large)  
Ms. Marija Vojkovich (State of California Official)  
Mr. Frank Warrens (Oregon Obligatory)  
Mr. Gordon Williams (State of Alaska Official, non voting)

The following Council member was absent from the first day of the meeting:

Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non voting)

The following Council member was absent from the entire meeting:

Mr. David Hogan (US State Department, non voting).

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

Dr. Don McIsaac made a few brief remarks on the week's agenda and noted the information reports in the Briefing Book.

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

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

## **B. Enforcement Issues**

### **B.1 Fishery Enforcement Activity Report**

#### **B.1.a Agenda Item Overview**

Mr. Jim Seger provided the agenda item overview.

#### **B.1.b Annual U.S. Coast Guard Fishery Enforcement Report**

Rear Admiral Houck provided a few comments regarding safety, drug enforcement, and homeland security responsibilities. Mr. Brian Corrigan provided a PowerPoint presentation (Agenda Item B.1.b, Supplemental USCG Report).

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

None.

#### **B.1.d Public Comment**

Public comment.

#### **B.1.e Council Discussion**

The Council thanked the Admiral and the Coast Guard for the report and for their commitment and assistance in fishery enforcement and safety.

## **C. Administrative Matters**

### **C.1 Future Council Meeting Agenda Planning (04/02/07; 4:08 pm)**

#### **C.1.a Agenda Item Overview**

Dr. Don McIsaac provided the agenda item overview. He reviewed Agenda Item C.1.a, Supplemental Attachment 1, Three-meeting Outlook, and Supplemental Attachment 2, Proposed June 2007 Council meeting agenda. He noted additional documents from California Department of Fish and Game (CDFG) and NMFS SW Region.

Ms. Marija Vojkovich briefed the Council on Agenda Item C.1.a, Supplemental CDFG Report, which provided background information on, and a proposed process and schedule for limiting entry into the directed open access fishery.

Mr. Mark Helvey explained the letter the Council received from Mr. Rod McInnis, (Agenda Item C.1.b, Supplemental NMFS Report). The letter is to alert the Council to the recent publication of the 2007 List of Fisheries categorizing all federal and state fisheries based upon levels of interactions with marine mammals. NMFS invites the Council and its advisors to review the 2007 list and provide any comments at the June meeting which should be considered in the development of the proposed list for 2008, using the information in the *Federal Register* notice (72 FR 14466, March 28, 2007).

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

None.

### **C.1.c Public Comment**

Ms. Carol Bernthal, Olympic Coast National Marine Sanctuary, Port Angeles, WA: Requested time on June agenda to present the results of research cruises surveying bottom structure, especially deep sea corals.

Mr. Robert Alverson, Fishing Vessel Owners Association, Seattle, WA: Requested resolution of an ownership classification problem in the sablefish tiered permit program

Ms. Dorothy Lowman, Environmental Defense, Portland, OR: Requested 15-20 minutes during June IQ topic for Environmental Defense to present an overview of a study of catch share programs that shows their economic, social, and environmental benefits.

### **C.1.d Council Discussion of Future Council Meeting Agenda Topics**

Pertaining to Agenda Item C.1.a, Supplemental CDFG Report, Ms. Kathy Fosmark asked to work with Ms. Vojkovich (CDFG) in identifying how different gear types might be handled.

Mr. Moore asked Dr. McIsaac why the biennial groundfish management specifications process was listed for June. Dr. McIsaac said that some stock assessments would be ready for review then and we need to begin developing agreement on the process and schedule so that everything is ready to go smoothly in November.

Mr. Frank Lockhart stated he would get an update on the timing of the Mitchell Act EIS so we would know when to schedule that review on the Council Agenda.

## **C.2 Magnuson-Stevens Act Reauthorization Implementation (04/03/07; 2:51 pm)**

### **C.2.a Agenda Item Overview**

Mr. Mike Burner provided the agenda item overview.

### **C.2.b NMFS Comments**

Dr. Rick Methot provided a PowerPoint presentation (available on the Council's website at: [http://www.pcouncil.org/bb/2007/0407/C2b\\_NMFS\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/C2b_NMFS_sup.pdf)).

Dr. McIsaac noted Ms. McPhearson from NMFS was available to answer any NEPA-related questions.

### **C.2.c Reports and Comments of Advisory Bodies**

Dr. Steve Ralston provided Agenda Item C.2.c, Supplemental SSC Report. Ms. Kelly Ames provided Agenda Item C.2.c, Supplemental GMT Report. Mr. Tom Ghio Provided Agenda Item C.2.c, Supplemental GAP Report. Mr. Stuart Ellis provided Agenda Item C.2.c, Supplemental HC Report. Mr. Moore provided Agenda Item C.2.c, Supplemental LC Report.

### **C.2.d Public Comment (04/03/07; 4:16 pm)**

Mr. Ben Enticknap, Oceana, Portland, OR

Ms. Meghan Jeans, The Nature Conservancy, San Francisco, CA  
Ms. Julie Sherman, Marine Fish Conservation Network, San Francisco, CA  
Ms. Erin Anderson, National Environmental Trust, Portland, OR  
Ms. Jennifer Bloeser, PMCC, Port Townsend, WA  
Mr. Bill LaBorde, WashPIRG, Environment WA, Seattle, WA  
Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA

**C.2.e Council Action: Direct Planning and Action on New Requirements as Needed for Timely Implementation (04/03/07; 5:06 pm)**

Ms. Vojkovich reviewed the proposed process, the short timeline, the complexity of the issues we are being asked to comment on, and the fact that several of our advisory bodies have not had a chance to draft comments. She suggested a longer comment period. She voiced concerns with all of the new workload requirements associated with new provisions and agreed with the LC comments regarding documenting the types of catch limits and accountability measures the Council has in its existing FMPs. She stated that she hopes that NMFS doesn't see this as a black and white issue, but more of what is more reasonable and appropriate.

Mr. Sones stated that he hears a lot of arguments that the tribes had 20 years ago being made today. He said that the science isn't perfect and that we don't have all the answers. This, in turn, leads us to be conservative to utilize buffers for fisheries, and take precautionary approaches in everything we do. He noted that the Council has made difficult decisions and taken some extreme actions to prevent overfishing and should not be lumped with other Council's as this issue is addressed at the national level. There are likely areas in which the Council can identify improvements, but many aspects of the new provisions are already in place on the West Coast.

Mr. Melcher asked Ms. Vojkovich if she was asking NMFS for an extension of the timeline on this to provide more comments at a later date. Ms. Vojkovich reiterated her concern that not all of the advisory bodies have met recently and did not have the chance to comment and there are still very real concerns about how these provisions will ultimately be implemented.

Mr. Melcher asked NMFS if extending the public comment period is feasible. Dr. Methot said the timeline is driven by the MSA and is relatively inflexible. Ms. Vojkovich clarified that she wanted to know if the proposed timeline is based on the assumption that there are not any catch limits that currently meet the new requirements and that a lot of time will be needed between now and the deadline to be established. Dr. Methot said that is not the case, but this Council will need to review its current FMPs. He continued that many of the provisions in the Council's FMPs will likely meet the requirements and new guidelines. The amount of work to be done and the degree to which FMPs will need amending will vary from one Council to another.

Ms. Culver clarified that the new National Standard 1 Guidelines and final rule will be published in November of 2007. This will then give the Councils 18 months to review different alternatives and amend FMPs to comply with the NMFS guidance.

Ms. Vojkovich stated this is a complex issue and requested some clarification on just what NMFS is interpreting, what exactly is the Council going to have to address? As an example, Ms. Vojkovich asked if the guidance will require the Council to establish sector-by-sector catch levels for all Council managed fisheries. Dr. Methot could not at this time say exactly how specific the guidelines will be. NMFS would like the Council to provide NMFS with examples of how annual catch limits work in the Council process and provide comments on how the guidelines should be drafted and evaluated. NMFS will not be able to design specific guidance for each fishery in the country.

Mr. Cedergreen ask if funds had been appropriated for the work of implementing these new provisions. Mr. Lockhart said when the MSRA was approved by Congress, the administration recognized there was going to be a need for additional funding. However, the funding has come late in the process and NMFS will be working with Congress to identify new funds as the Councils and NMFS work through this process in the next few years.

Ms. Cooney said it would help the process if the Council made a strong case that what they are already doing meets the new provisions. She added it would be useful to identify areas of additional work and those issues that cause problems as well.

Mr. Moore suggested that Council advisory bodies that have not been able to meet or have been engaged in other time sensitive matters at this meeting be given the opportunity to provide input in time for the public comment period. Mr. Moore noted that the Council has also participated in previous reviews of National Standard 1 Guidelines and feels many of those recommendations are still relevant and he urged NMFS to revisit those recommendations when drafting the DEIS and proposed rule.

Dr. McIsaac felt it was important for the Council to provide comments at this time and noted that the proposed schedule shows FMPs being amended in 2008. He cautioned that in 2008, the Council will be adopting harvest specification and management measures for the next groundfish cycle. This will involve a significant amount of work and the development of an EIS. If the Council will need to consider amendments to some or all of its FMPs to comply with the new MSA during this same time, it will create a significant workload situation. As an example, to develop annual catch limits (ACLs) for salmon fisheries is potentially fraught with many difficulties. This Council's record on preventing overfishing and addressing overfished stocks has been very good over its history. It would be best if the Council can make a good case for not amending its FMPs when one considers the other work items the Council is scheduled to address between now and 2010.

Mr. Moore moved (Motion 2) that the Council convey to NMFS under the scoping process, the recommendations contained in the SSC Report, GMT Report, GAP Report, and LC Report as a means of identifying issues to be included in the scoping process and potential solutions for the question of how to develop annual catch limits and accountability issues. Mr. Warrens seconded the motion.

Mr. Moore reiterated that we are in an early phase of developing guidance and he believes there is substantial background in the reports contained in the motion to establish what the Council has already accomplished. He added that, when coupled with the Council's earlier comments on National Standard 1 Guideline, this package should provide NMFS with a strong case that extensive amendment of our FMPs is unnecessary.

Dr. Hanson noted that some of the Council advisory bodies may draft statements by the public comment period and asked if the motion would include those statements as well. Mr. Moore and the Mr. Warrens accepted this notion as a friendly amendment as it was their original intent.

Ms. Culver asked about including comments on the international fishery management component of setting catch limits and she suggested it might be better to have the HMS advisory bodies take a look at this later this week and come back with their recommendations.

Mr. Burner clarified with the maker and second that the motion did not include the HC statement.

Mr. Melcher confirmed that these reports would be accompanied by a letter and he stressed the importance of emphasizing the difficult issue of applying annual catch limits to our current salmon management regime.

Ms. Vojkovich noted that the CPS FMP contains species that are monitored by the Council, but managed by the State. She added that there are some nearshore groundfish fisheries that are also co-managed and the application of ACLs and accountability measures (AMs) in this situation will need clarification.

Ms. Culver and Mr. Burner noted that between the CPS and HMS FMPs there are several monitored species in a variety of domestic and international management approaches that may or may not work well with this new mechanism. Mr. Moore suggested that if none of the advisory panels addresses this issue, the Council letter should.

Motion 2 passed.

### **C.3 Approval of Council Meeting Minutes (04/04/07; 8:07 am)**

#### **C.3.a Council Member Review and Comments**

None.

#### **C.3.b Council Action: Approve Council Meeting Minutes**

Mr. Dale Myer moved and Mr. Melcher seconded a motion (Motion 3) to adopt the minutes as shown in Agenda item C.3, Draft September 2006 Council Meeting Minutes. Motion 3 passed.

### **C.4 Appointment to Advisory Bodies, Standing Committees, and Other Forums, and Changes to Council Operating Procedures (COP) as Needed (04/04/07; 8:08 am)**

#### **C.4.a Agenda Item Overview**

Dr. John Coon provided the agenda item overview.

#### **C.4.b Reports and Comments of Advisory Bodies**

None.

#### **C.4.c Public Comment**

None.

#### **C.4.d Council Action: Consider Changes to COP and Appoint New Advisory Body Members as Needed**

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 4) to appoint Ms. Joanna Grebel to replace Ms. Susan Ashcraft on the Groundfish Management Team. Motion 4 passed.

Ms. Vojkovich moved and Mr. Lockhart seconded a motion (Motion 5) to establish a Council Coordination Committee (as requested by NOAA Fisheries) consisting of the chairs, vice chairs, and executive directors of each of the eight regional fishery management councils, other council members, and staff. The chairs, vice chairs, and executive directors shall be voting members. The six NOAA Fisheries Regional Administrators or their designees, other council members, and staff shall be non-voting members. The Council Coordinating Committee shall meet from time to time as appropriate to discuss issues of relevance to all councils. The Council Coordinating Committee may establish such subcommittees as it deems appropriate. Motion 5 passed.

In response to the notification calling for advisory appointments to the Pacific Whiting Commission, Mr. Moore spoke against the Council providing anything more than general guidance. He noted that the Council does not get involved in appointing people to international treaty advisory bodies (e.g., the IATTC, PSC, etc). He believes it is not appropriate for the Council to provide names for international bodies.

Ms. Culver agreed with Mr. Moore. She asked if Mr. Lockhart had in mind how often that group would meet, a sense of travel, and budget? Mr. Lockhart stated that for the advisory panel, we are envisioning three meetings over the next 10 months (the initial meeting, actual season determination meeting, and an OY discussion meeting). He said they will soon be putting out an FR seeking nominations to the advisory positions. Ms. Culver requested that the announcement be made available to Council advisory bodies, in particular the GMT, and the Council members.

Ms. Vojkovich said it would be worthwhile when the announcement went out that we would ask for a broad range of participants (each fishery sector as well as from small business, large business, and each of the three states).

Mr. Warrens moved and Mr. Moore seconded a motion (Motion 6) that the Council staff and the Chairman work together to produce a draft Council Operating Procedure (COP) for the Essential Fish Habitat Oversight Committee (EFHOC) and have that draft available for Council and Council advisory body review at the June meeting.

Mr. Warrens expressed his concern that with EFH proposals and potential amendments coming before the Council every meeting, we need to deal with them on a timely an efficient basis, limiting the EFHOC review to maybe not more than once a year or every other year. The committee could be comprised of a core group with fishing representatives aligned with the areas of concern for EFH added as appropriate.

Ms. Culver, referring to Attachment 1 and with regard to the motion being made, noted there seems to be quite a bit of ambiguity as to the makeup of the EFHOC. It is not clear if it would be members from advisory panels only, include Council members, or if we would have the ability to designate seats and/or rotate them.

Mr. Warrens said Ms. Culver brings up some legitimate concerns that could be put into the draft COP and certainly all of those considerations could be put on the table.

Mr. Lockhart said he was concerned about the scientific basis for reviewing and making any changes to EFH and that input would be needed from the SSC and HC.

Dr. Coon said the draft would go before the Council in June and we would get comments from our advisory bodies at that time.

Motion 6 passed.

## **C.5 Ecosystem Fishery Management Plan (04/04/07; 8:25 am)**

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

Mr. Mike Burner provided the agenda item overview.

### **C.5.b Agency and Tribal Comments**

None.

### **C.5.c Reports and Comments of Advisory Bodies**

Dr. Bob Conrad provided Agenda Item C.5.c, Supplemental SSC Report. Mr. Burner read Agenda Item C.5.b, Supplemental HC Report. Ms. Kelly Ames and Dr. John Fields provided Agenda Item C.5.c, Supplemental GMT Report. Mr. Jim Martin provided Agenda Item C.5.c, Supplemental GAP Report.

### **C.5.d Public Comment**

Mr. Ben Enticknap, Oceana, Portland, Oregon  
Mr. Santi Roberts, Oceana, Portland, Oregon

### **C.5.e Council Guidance and Direction on Future Planning**

Mr. Moore said the Council is grappling with the need for better science to form the basis of more informed Council actions. He felt that incorporating ecosystem principals into Council fishery management activities could be an effective way to bring more scientific information into the process. Mr. Moore noted the Council is also dealing with issues such as costs and available budget, staff resources, and time. The Council has several existing FMPs that provide clear and specific direction to incorporate ecosystem principles, but the Council would benefit from the development of a clear process for how broader ecosystem considerations are incorporated into the management of our marine environment while best meeting the needs of communities.

Mr. Moore moved (Motion 7) that the Council appoint a Plan Development Team (PDT) for an Ecosystem FMP to be chaired by an SSC representative and consisting of one member each from the STT, SAS, GMT, GAP, HMSMT, HMSAS, CPSMT, CPSAS, HC, and EC and that the team be charged with developing the purpose and need, potential goals, and objectives of an Ecosystem FMP. The PDT is to provide the Council a report on the matter at a future undetermined date. Ms. Vojkovich seconded the motion.

Mr. Warrens stated he intends to vote in favor of the motion, but spoke to the importance of the independency of the SSC. Mr. Warrens asked for a friendly amendment to remove the SSC representative to ensure their independent review of the plan. Mr. Moore asked for clarification and pointed out that individual SSC members are serving on stock assessment review panels which are chaired by an SSC member. The results are then brought forward to the entire SSC for review. The individual who chairs the stock assessment review panel does not participate in the review of his or her own work. There is already independency.

Mr. Warrens clarified with Mr. Moore that the intent was to have only one SSC member as chair of the PDT. Mr. Moore added that all work products developed by the PDT will undergo review by the full SSC and other advisory bodies before final review by the Council. Mr. Warrens said that so long as the SSC representative on the PDT was able to recuse themselves from the full SSC review he is in support of the motion. Mr. Warrens withdrew his friendly amendment.

Chairman Hansen asked Mr. Moore about the PDTs proposed schedule and timeline and raised concerns about the heavy existing workload. Mr. Moore said we have an interest evidenced by statements and testimony from our advisory panels, technical teams, SSC, and public recommending we move forward with this action. Each of these entities will be meeting during the course of this coming year; most tend

to meet at a Council meeting. The individual members may have to schedule an extra day to have their first meeting followed by phone and email communication as necessary. Any way we proceed with an EFMP there will be workload and budget implications and this motion is intended as a logical way to take the first step.

Mr. Jerry Mallet reiterated that this work is currently not budgeted and he asked if NMFS intends to pay for the work. Mr. Helvey said the short answer is no; but he noted under Magnuson-Act, Section 406 calls for research into the application of ecosystem approaches to management and includes provisions for grants from the SOC for ecosystem management plans. He continued that at least part of the reason the Council is addressing this issue is in reaction to the activities of the National Marine Sanctuary Program (NMSP) and perhaps an Ecosystem FMP would help the Council work with them in fulfilling mutual objectives. NMFS is exploring a partnership with the NMSP as a means to identify new funding sources including the SOC grants. As a friendly amendment to the motion, Mr. Helvey suggested that an NOS individual be a part of the PDT to start fostering a working relationship.

Dr. McIsaac, with regard to the financial aspects of the FMP development, stated the Council has received assured status quo funding for 2007. The fiscal impact of the motion on the table is less than the more classic approach of developing a permanent PDT of largely new representatives. The workload concerns are accurate and the individuals nominated for the PDT will need to consider and speak to their own workload issues when deciding to participate. Establishing a PDT from people who are not already in the Council arena may result in a team that is more productive as they do not have other Council workload issues to juggle, but that is the more expensive model. Dr. McIsaac recommended considering the Council staff workload associated with staffing the new committee as well.

Mr. Moore stated that in regard to someone from NOS being part of the PDT, he would note that the HC has someone from the NMSP and perhaps that person could be named from the HC as an initial step.

Mr. Warrens recommended the PDT include NMFS legal counsel and included this piece as a friendly amendment. Chairman Hansen suggested that legal counsel act as advisor to the PDT rather than a member. Ms. Cooney agreed and stated the NMFS General Council staff generally act as advisors and attend the meetings if time and resources allow. Mr. Warrens said if it is understood that legal counsel would provide input, then he withdraws his friendly amendment.

Mr. Lockhart commented that he is supportive of the motion, but then wanted to discuss items he felt were important in this process to consider. Regarding Mr. Moore's statement of the need for new information, Mr. Lockhart agreed and noted the requests from the advisory panel statements that asked for a more formal implementation process. He also noted the SSC called for more information on existing harvest control rules and suggested a summary of these needs could benefit the development of the Ecosystem FMP. Mr. Lockhart noted the social and economic impacts of this FMP have not been discussed and recalled the valuable exercise of community considerations under Amendment 16-4 to the groundfish FMP. The impact of our decisions on fishing communities is important and he wanted to make sure the PDT recognizes this fact as they are reviewing the potential goals and objectives. In developing the purpose and need, goals and objectives, he said it is going to be an iterative process between the PDT and the Council. He felt a presentation on the available science and resources for ecosystem-based management would be very helpful. Mr. Lockhart offered the assistance of both West Coast NMFS Science Centers in organizing a workshop to take a look at the state of the science and the SSC recommendation regarding control rules. He suggested this could happen at a Council meeting, possibly an evening session.

Dr. McIsaac said he thinks to some extent defining what the NMFS Science Centers are going to do would be useful. The discussion is general at this time and focused on foundational approaches and suggested more clarity would be needed.

Mr. Ortmann envisioned a short document that is focused on the limited tasks in the motion and did not think the assignment should evolve into a large work product. Mr. Moore agreed and felt a concise document or report would be good first step. Mr. Moore stated he did not have a timeframe in mind because that depends on the schedule of the participants and available budgets.

Mr. Lockhart recommended that NMFS would commit to getting the two science centers together on the SSC recommendation to look at existing control rules and summarize the extent to which the existing management practices could be inadequate for an ecosystem-based management mechanism. He suggested the report could be available at the June meeting. Regarding the GMT recommendation for a series of presentations, again he recommended the two science centers take the lead and work with the Council ED and Chairman on scheduling.

Mr. Melcher said he thinks this is a good idea and is supportive of the motion, but he expressed some concern with the Council's huge workload and the many initiatives the Council is working on. He agrees with Mr. Ortmann and sees the first step as being achievable without a huge amount of work.

Ms. Culver supports the motion made by Mr. Moore and suggested that for the June meeting, not as a separate agenda item, but under the 3-meeting outlook that Council staff prepare a proposed timeline for the process; one with minimal budget impacts. Further, she recommended Council staff work with NMFS relative to scheduling the recommended presentations to the Council and to the PDT prior to developing the goals and objectives, and the purpose and need statement.

Mr. Helvey clarified that although he and Mr. Lockhart were participating in the discussion, there is only one NMFS vote by Mr. Lockhart.

Chairman Hansen asked for a vote on Motion 7. Motion 7 passed.

Regarding this resolution, Dr. McIsaac clarified that the Council staff will only act on this motion if it doesn't displace any current 2007 work items with regard to workload and funding. Mr. Helvey reiterated that NMFS has had preliminary discussions with the NMSP and will continue those discussions to determine if there are any additional funds available.

Mr. Moore said his intent of the motion was to fit this action into the normal Council budget prioritization process.

It was understood NMFS science centers would still volunteer to make the presentations and provide the information as suggested by the GMT and SSC.

## **C.6 Legislative Matters (04/05/07; 3:04 pm)**

### **C.6.a Agenda Item Overview**

Mr. Burner provided the agenda item overview.

### **C.6.b Legislative Committee Report**

Mr. Burner read Agenda Item C.6.b, Supplemental LC Report. Dr. Hanson noted that regarding the aquaculture issue, the State of Alaska has shared its position on the matter and had requested the other Pacific states consider forming a five state coalition. Mr. Williams said there is some utility to getting such discussions started and asked if the Council Coordinating Committee (CCC) would be discussing the matter in May.

Chairman Hansen said that would likely be a discussion topic for the CCC.

Ms. Vojkovich asked if there were any indications on how quickly Congress may take up this matter. Mr. Moore stated he was not aware of any introduced bill at this time and asked Dr. Hanson if the NPFMC has a legislative committee and, if so, he asked if they discussed the issue or the position of the State of Alaska. Dr. Hanson said the NPFMC does not have a legislative committee and this issue was not on their agenda.

### **C.6.c Reports and Comments of Advisory Bodies**

None.

### **C.6.d Public Comment**

Public comment.

### **C.6.e Council Discussion**

See above discussion during LC Report. Mr. Warrens moved and Mr. Melcher seconded a motion (Motion 12) to adopt the Legislative Committee Report as shown in Agenda Item C.6.b, Supplemental LC Report. Motion 12 passed.

## **C.7 Council Three-Meeting Outlook, June 2007 Council Meeting Agenda, and Workload Priorities (04/06/07; 4:37 pm)**

### **C.7.a Agenda Item Overview**

Dr. Don McIsaac provided the agenda item overview. He noted on the workload sheet (Supplemental Attachment 3) that the shaded items are those for which someone other than Council staff has the lead: NMFS NWR has the lead on the whiting monitoring program; ODFW the lead on Amendment 15 (AFA); and CDFG the lead on open access limitation. The Council staff has the lead on intersector allocation (mistakenly shaded).

### **C.7.b Reports and Comments of Advisory Bodies**

Dr. John Coon read Agenda Item C.7.b, Supplemental GAP Report.

### **C.7.c Public Comment**

Mr. Bob Alverson, Fishing Vessel Owners Association, Seattle, WA—vessel and permit ownership issue.

#### **C.7.d Council Guidance on Three Meeting Outlook, June 2007 Council Agenda, Council Staff Workload, and Priorities for Advisory Body Consideration**

Council members worked with the Executive Director and Council staff to develop the June 2007 Council agenda, staff workload and priorities for advisory body consideration.

Following up on Mr. Alverson's request for a change to the ownership and permit regulations in the sablefish fishery, Ms. Culver asked Mr. Lockhart if NMFS had reviewed the request to clarify the issue and consistency with how it is handled in the Alaska fishery; and to determine the simplest way of dealing with it here. Mr. Lockhart said he would be conferring with his staff on this.

Dr. McIsaac recalled an additional agenda item on potential revisions in the observer data delivery process that was contemplated for June, but due to its complexity will be delayed to September. The NWFSC will provide a description of the proposed program and changes for review by the advisors at the June Council meeting with comments provided on the Council floor in September.

Mr. Lockhart asked about Agenda Item B.4, Draft COP for EFHOC, and suggested the Council could task the SSC and the HC to develop criteria for reviewing EFH proposals.

Ms. Culver suggested staff and advisors use COP 19 as a guide to developing criteria for the EFHOC COP. She also requested that the Olympic Coast National Marine Sanctuary be added to the June Council agenda as they have already made an announcement of that fact based on our March Three-Meeting Planner, and have prepared an informational presentation on the results of their research cruises. Dr. McIsaac suggested, if the Council wants that change the presentation be scheduled for Wednesday evening as the earlier days of the week are already so full it might entail extending the agenda to Saturday. Ms. Culver stated she did not favor it being an evening session, her first choice would be to limit them to 30 minutes and put them on the Monday agenda. Dr. McIsaac said limiting agenda items and presentations to 30 minutes is very difficult, especially where there might be a lot interest generated for the advisors and public. Ms. Culver noted that Wednesday evening would limit it to just an informational presentation.

Mr. Moore suggested the GAP look at the EFH criteria issues, and not just the HC. Dr. Coon said that was the purpose of bringing this out as a draft. He thinks what Mr. Lockhart is looking for is something more specific, everybody has the chance to provide comments.

Mr. Melcher stated he wanted to make some comments with regard to Amendment 15 (AFA) and had some questions for Ms. Vojkavich on the open access (OA) issue. He asked for confirmation from Ms. Vojkovich that there would be some alternatives provided in June for OA? Ms. Vojkovich indicated that there would not be alternatives, just an overview of what the open access fishery has looked like in the past and speculating on where we may want to go with this fishery in the future prior to developing actual alternatives. They are not coming with criteria to cut this fishery.

Mr. Melcher noted that some alternatives have been identified during this week for Amendment 15 as well as some planning for workload and ideas for pieces of the analysis. As they have previously expressed, ODFW has a lot of interest in the successful completion of this amendment. ODFW will have staff assigned to work on this analysis and the draft EA. While ODFW staff has a high degree of familiarity with shoreside whiting issues, they are not as familiar with the at-sea sector. He welcomes the commitments from both Messrs. Anderson and Lockhart to assist too. With that in mind and after conferring with Mr. Lockhart, he intends to follow up the Council meeting with a conference call with Mr. Lockhart and Council staff to line out assignments. The ODFW contact person for Amendment 15 will be Ms. Gway Kirchner. Mr. Lockhart said the contact person for NMFS is Ms. Becky Renko.

## **D. Open Public Comment**

### **D.1 Comments on Non-Agenda Items (04/02/07; 4:53 pm)**

Vice Chairman Dave Ortmann chaired this agenda item.

#### **D.1.a Public Comment**

Mr. Bob Bohlman, Olympic Coast National Marine Sanctuary Advisory Council (OCNMA), Port Angeles, Washington. He briefed the Council on the makeup of the advisory council. Mr. Bohlman asked for the Council's assistance as the OCNMS anticipates starting their own management plan in the upcoming year (Ms. Bernthal noted fall of 2007). (See the Council's website for the OCNMA comments: [http://www.pcouncil.org/bb/2007/0407/D1a\\_PC\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/D1a_PC_sup.pdf)).

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon. Mr. Bodnar spoke about the emergency rule for whiting that was passed at the March meeting. He said it has disrupted one of his member's harvest plans that he has been pursuing for a couple of years. Mr. Bodnar spoke to his letter provided under [Agenda Item E.3.d, Supplemental Public Comment](#). He was asking for a modification of the existing emergency rule.

Mr. Joel Kawahara, troller, Seattle, Washington. Mr. Kawahara talked about the Columbia River Power Project Act (hydro-development). He spoke about the NMFS biological opinion. Mr. Kawahara noted the next few speakers will be talking about "Revenue Stream" a report that examines the economics of salmon vs. the economics of the four lower Snake River dams.

Mr. Rob Musanas, American Rivers Association, and Mr. Stuart Ellis, Columbia River Intertribal Fish Commission provided the following handout "Revenue Stream, An Economic Analysis of the Costs and Benefits of Removing the Four Dams on the Lower Snake River". (See starting on page 4, [http://www.pcouncil.org/bb/2007/0407/D1a\\_PC\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/D1a_PC_sup.pdf)).

Mr. William Daspit, representing himself, Seattle, Washington. Spoke about an alternative groundfish management plan to the existing limited entry system and allocation system.

Mr. Mike Pettis, Newport, Oregon. He asked the Council to relax the fixed gear sablefish base vessel permit length requirements (See page 28, [http://www.pcouncil.org/bb/2007/0407/D1a\\_PC\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/D1a_PC_sup.pdf)).

#### **D.1.b Council Discussion of Comments as Appropriate**

None.

## **E. Groundfish Management**

### **E.1 National Marine Fisheries Service (NMFS) Report (04/03/07; 8:07 AM)**

#### **E.1.a Regulatory Activities**

Mr. Frank Lockhart provided an update on the whiting emergency rule. NMFS is in the process of reviewing the record of decision from the Council and the submitted public comments. They expect to be able to make an announcement on the decision by May 15th, as requested by the Council.

Mr. Lockhart then explained that he and Dr. Elizabeth Clarke have been working together to implement the whiting treaty portion of the reauthorized Magnuson Stevens Act. They realized that the advisory panel needs to be established quickly, as the panel has to meet and make recommendations on the composition of other panels before those groups can meet. So, NMFS will publish a solicitation for advisory panel nominations in the Federal Register, and likely fill the positions prior to the June Council meeting. All the other panels can be filled after the June Council meeting. He urged the Council to recognize the timing of this and to consider providing input on the advisory panel's membership. Later, Ms. Cooney read in the treaty the listing of what sectors should be represented on the advisory panel. Dr. McIsaac asked if the Council's nominations for the advisory panel could be discussed Friday under Agenda Item C.4 (Council Appointments), so that there would be time for the Council and its advisory bodies to consider the issue.

The third item Mr. Lockhart brought to the Council's attention is that some fishermen may be contemplating participation in the shoreside whiting fishery without being part of the EFP. They would instead sort at-sea. Mr. Lockhart explained that these vessels would not carry cameras, and so NMFS' concern is that there could be a significant portion of the fishery that will be unmonitored (though within the West Coast Groundfish Observer Program pool). Given that this fishery has been primarily managed through bycatch limits, this decrease in monitoring is of concern. NMFS is exploring options and may have to act before the June 15th shoreside fishery opening date. Mr. Moore asked how NMFS could take action to address this issue, given that it has not already been analyzed through NEPA. Mr. Lockhart said they could take action through an emergency rule, if the problem is serious enough that it threatens NMFS' ability to manage the fishery. Ms. Vojkovich asked how NMFS would determine that shoreside whiting vessels are sorting at-sea and that the issue justifies an emergency rule. Mr. Lockhart responded that there is no formal mechanism and that it would ultimately be a judgment call; a first indication would be if significantly fewer vessels signed up for the EFP, after which he might direct his staff to make inquiries to industry members.

#### **E.1.b Science Center Activities, Including 2006 Workshop Reports**

Drs. Elizabeth Clarke and Jim Hastie provided a brief report on science center activities. Dr. Clarke said that they are moving ahead with the survey, though the budget is not yet set. Off-year workshop reports were provided in the briefing book as informational materials. These workshops were organized to provide guidance to stock assessment authors on issues of data modeling; the bottom trawl survey data; and the pre-recruit survey data. Dr. Clarke said that NWFSC and other agencies are continuing with pre-assessment workshops, which give constituents a more formal process through which to have discussions with the stock assessment authors. She provided information from the SWFSC that catch series data found in a vault at CDFG has now been coded and is available as an electronic data source from Dr. Alec McCall.

Lastly, Dr. Clarke explained that at the last Council meeting there was a suggestion to reconsider the timing of the WCGOP reports. She stated that the NWFSC had a proposed new schedule for the Council's consideration. More discussion on the issue should continue at the June meeting. Dr. Clarke then provided a PowerPoint presentation (Agenda Item E.1.b, Supplemental NWFSC PowerPoint) that outlined the current schedule and the proposed new schedule. Dr. Hastie explained that the proposed schedule would divide the reporting periods into six month halves, which would allow the WCGOP to develop data reports and update the bycatch model prior to the June meeting. This would allow information from the prior summer to be available in June for consideration in inseason adjustments. However, this report would not be a full mortality report; the total mortality report is proposed to be available November 1. Dr. Hastie continued that the Council should seriously consider how this would affect the biennial specifications process. The new bycatch information would come into the process in

June, at the same time that the Council is to take final decision on the specifications (for which there was already analysis that did not use that new data). Dr. Clarke also explained that with the current data system (fish tickets, logbooks, etc.), this proposed timeline assumes analysts working at full speed and that there would be a small reduction in the amount of data in the report.

Dr. McIsaac asked if the NWFSC could provide an item for the June briefing book that outlines the proposed schedule and includes an analysis of the tradeoffs between the two schedules. Dr. Clarke said yes. Dr. Hastie said that this could be considered in June and September, given that implementation would not need to occur until the end of the year. The Council confirmed that this issue should be on the agenda for the next meetings.

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

Dr. Steve Ralston provided Agenda Item E.1.c, Supplemental SSC Report.

Mr. Moore asked about what kind of changes could be expected in the widow rockfish stock assessment, given that it is an update. Dr. Ralston responded that new age composition and catch data will be incorporated, but that trend indices will not be new. Dr. McIsaac asked further questions about the widow rockfish and English sole update assessments. Dr. Ralston explained that the pre-recruit survey data would also be updated in the widow rockfish assessment. The plan for that data source, given the conclusions from the pre-recruit survey workshop, is to update the full time series for the core area but also to do a sensitivity analysis that uses the restricted time period. Also, two more years of data may better confirm the strength of the 1999 year class. He concluded that there are reasons to think that one's view of widow rockfish rebuilding could be influenced by the update.

### **E.1.d Public Comment**

None.

### **E.1.e Council Discussion**

With Council concurrence, Dr. McIsaac asked Ms. Laura Bozzi to coordinate distribution of the workshop reports to STAR Panel participants and stock assessment authors, as recommended in the SSC Report.

The Council briefly returned to discussion on recommendations for the whiting advisory panel recommendations. Dr. McIsaac suggested that Council staff provide a document for the Council and advisory bodies to consider under Agenda Item C.4 (Appointments). Mr. Moore cautioned that much of the constituency interested in the whiting treaty implementation is not present because they were not aware that the Council would consider making these recommendations. He continued that he was unsure if it would be appropriate for the Council to make recommendations on a non-Council committee without prior notification to the public. Responding to Dr. McIsaac, Mr. Lockhart confirmed that the Council would not have an opportunity to provide recommendations if they did not do so during this Council week. Chairman Hansen concluded the discussion by stating that the Council would revisit the issue under Agenda Item C.4.

## **E.2 Consideration of Inseason Adjustments (04/04/07; 1:40 pm)**

### **E.2.a Agenda Item Overview**

Mr. John DeVore provided the agenda item overview.

### **E.2.b. Report of the Groundfish Management Team (GMT)**

Ms. Kelly Ames and Mr. Merrick Burden provided Agenda Item E.2.b, Supplemental GMT Report 2.

Mr. Moore referred to the trawl chilipepper issue and asked why there is a concern with trawlers targeting chilipepper rockfish. He asked, isn't the concern associated bycatch? Mr. Burden said Mr. Moore's characterization is correct and the concern is the bocaccio bycatch. Mr. Moore asked if the West Coast Groundfish Observer Program (WCGOP) data indicated there was not a significant bycatch of bocaccio in trawl efforts targeting chilipepper, then it would not be a concern and Mr. Burden said yes.

Mr. Anderson said he appreciated the analysis of the trawl RCA boundary in the area between the Columbia River and Leadbetter Pt. He asked if the point of the analysis was that most of the recent year effort in that area occurred shoreward of 60 fm anyway and Mr. Burden said that was correct. He asked if there was crab bycatch noted in the WCGOP data and Mr. Burden said that data was available, but would have to be analyzed and reported.

### **E.2.c Agency and Tribal Comments**

None.

### **E.2.d Reports and Comments of Advisory Bodies**

Mr. Tom Ghio provided Agenda Item E.2.d, Supplemental GAP Report.

### **E.2.e Public Comment**

Mr. Tom Ghio, Ghio Fish Company, Santa Cruz, CA

### **E.2.f Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2007 Groundfish Fisheries**

Mr. Moore asked Mr. Anderson if he was planning to write a request to the NWFSC for WCGOP data on trawl-caught crab in the Columbia River to Leadbetter Pt. area. Would there be consideration to add the lingcod and chilipepper data request as well? Mr. Anderson said he was not sure how this would occur. Mr. Lockhart volunteered to request these analyses. Mr. Moore asked if the request would be extended to lingcod and chilipepper as well and Mr. Lockhart said yes.

Chairman Hansen asked Mr. DeVore if Agenda Item E.4 would be needed on Thursday given that there were no inseason adjustments recommended and Mr. DeVore said no, Agenda Item E.4 could be cancelled.

## **E.3 Amendment 15: American Fisheries Act**

### **E.3.a Agenda Item Overview (04/05/07; 8:17 am)**

Mr. Mike Burner provided the agenda item overview.

### **E.3.b ODFW Report**

Mr. Curt Melcher provided Agenda Item E.3.b, Supplemental ODFW Report.

### **E.3.c Reports and Comments of Advisory Bodies**

Mr. Anderson provided Agenda Item E.3.c, Supplemental WDFW Report. He noted that he agreed with Mr. Melcher's comments under the ODFW report. Washington wanted to make sure they had an understanding about the timeline as it relates to 2008 and 2009 and had some questions regarding the ability to extend an emergency rule past 2008. Mr. Anderson said Washington feels that moving forward with the amendment is an interim step and would recommend keeping the action as simple as possible given the short time available to complete the action. Regarding the alternatives, Washington recommends that at a minimum, an alternative that replicates the Council's emergency rule recommendation be added.

Mr. Lockhart commented that under this action and amendment, NMFS would be interested in a clear understanding of how those proposals would address the provisions of the AFA to do no harm and to protect West Coast fisheries.

Ms. Heather Munro provided Agenda Item E.3.c, Supplemental GAP Report. Mr. Moore asked Ms. Munro about the GAP recommendation of the starting date of 1994 for the qualifying years in the alternatives. She said the GAP was concerned that Option 2 in the ODFW report is open-ended in terms of the beginning of the qualifying period and recommends 1994 as that date is consistent with the start of limited entry. Mr. Moore said it was presumed then that there were AFA qualified vessels that made landings prior to 1994.

Mr. Melcher asked Ms. Munro if the GAP had a chance to review the additional option recommended by WDFW. She said they did not receive a copy of the WDFW Report.

Dr. McIsaac asked if the GAP discussed the issue of the intent of the AFA.

Ms. Munro said due to the way the pollock fishery in Alaska was rationalized, the fishery schedule now provides more flexibility easily accommodating their new participation in the Pacific whiting fishery. However, as a group, they did not discuss this issue in detail at this meeting as that was the subject of discussions in September 2006 and March 2007.

### **E.3.d Public Comment**

Mr. Mike Okoniewski, Pacific Seafoods, Woodland, WA  
Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA  
Mr. Craig Cochran, F/V Bay Islander, Newport, OR  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Chris Garbrick, F/V Mark I, Seattle, WA  
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR  
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA  
Mr. Steve Hughes, F/V Pacific Challenger, Seattle, WA  
Mr. Bert Parker, F/V Pacific Challenger, Seattle, WA  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Gary Wintersteen, commercial fisherman, Warrenton, OR  
Mr. Brent Healand, trawler, Newport, OR  
Ms. Donna Parker, Arctic Storm Management Group, Seattle, WA

### **E.3.e Council Action: Consider Preliminary Alternatives for Analysis**

Mr. Melcher moved and Mr. Moore seconded a motion (Motion 10) to adopt a preliminary range of alternatives for Amendment 15 to the Pacific Groundfish FMP as follows:

Alternative 1: Status quo.

Alternative 2: Prohibit participation in the shoreside, catcher/processor, and mothership sectors of the Pacific whiting fishery by AFA-qualified vessels that do not have a significant historic participation record in those sectors between January 1, 1994 and January 1, 2006.

Alternative 3: Prohibit participation in the shoreside, catcher/processor, and mothership sectors of the Pacific whiting fishery by AFA-qualified vessels that do not have a significant historic participation record in those sectors between January 1, 1994 and January 1, 2007.

For both Alternative 2 and Alternative 3, "significant historic participation" is defined in two alternative ways for analysis.

For catcher/processors, significant historic participation is defined as:

- a. having caught and processed at least 1,000 metric tons (mt) of whiting in any one qualifying year; or
- b. having caught and processed at least 1,000 mt of whiting in any one qualifying year subsequent to December 31, 1996 (the addition of the "b" alternative in this part of the motion was added by voice vote, see below).

For motherships, significant historic participation is defined as:

- a. having received at least 1,000 mt of whiting in any one qualifying year; or
- b. having received at least 1,000 mt of whiting in any one qualifying year subsequent to December 31, 1996 (the addition of the "b" alternative in this part of the motion was added by voice vote, see below).

For catcher vessels in the shore-based or mothership fishery, significant historic participation is defined as:

- a. having landed at least 500 mt of whiting in any one qualifying year; or
- b. having landed at least 1,000 mt of whiting in any one qualifying year.

Mr. Lockhart asked for clarification on the proposed qualifying years in the alternatives. Mr. Melcher said the qualifying years are based on concepts developed during the original Council deliberations on this matter in 2001 and that these would capture the historic sector-specific participants in the fishery over the years.

Mr. Myer asked Mr. Melcher, for clarification, if the motion includes any provisions for a vessel to qualify for one sector and then cross over into another in a future season. Mr. Melcher said a CV could qualify for more than one sector depending on its historic participation, but this motion does not allow for cross-over.

Mr. Anderson stated the Pacific whiting fishery can be difficult to parse into specific sectors as participation varies and as the fishery evolved into the sectors we have today. He is supportive of the qualifying years as portrayed in the motion, but wants to ensure the preliminary analyses have the flexibility of considering different qualifying periods for the catcher/processor (CP) and mothership (MS) sectors versus the catcher vessels (CVs). He feels the range of alternatives on the table will allow the Council to fully understand the implications of each qualifying period and should provide an adequate

measure of protection to the Pacific whiting fishery. He would not want our ability to rule out to use the qualifying period in alternatives 2 and 3 until he has an understanding of the effects of the differences. He understands people want to make this simple but moved to add an additional qualifying period for the CP and MS sectors under alternatives 2 and 3 for the purpose of the analysis that would look at qualifying landings prior to 1997. Mr. Cedergreen seconded the amendment to the motion.

Mr. Melcher stated he is not opposed to the motion, but asked Mr. Anderson and NMFS for assistance in collecting and analyzing data for the at-sea sectors as Oregon staff primarily has access to the shoreside whiting data. Mr. Lockhart and Mr. Anderson stated that although specific assignments have not been made regarding the workload associated with the motion. WDFW and NWR staff would be available to help.

The amendment to Motion 10 passed.

Mr. Myer stated that the amendment to the motion should shed light on the issue of CP vessels participation in limited MS type activities in the mid-1990's as the Pacific whiting fishery was developing its current sector structure.

Mr. Moore noted the analysis should consider the length of the whiting season in relation to participation by numbers of vessels and consider the latent effect of AFA vessels that have not yet participated in the West Coast fisheries. He stated there are a number of AFA vessels that could participate in the whiting fishery; some with large capacity. If you look at the latent capacity you will get some idea of what the potential harm could be.

Mr. Anderson said there are 112 AFA qualified vessels, some would qualify under the alternatives set in the motion. It will be important to the seasonal structure of the Alaskan pollock fishery and the Pacific whiting fishery to assess the potential of new AFA entrants.

Motion 10 passed.

#### **E.4 Final Consideration of Inseason Adjustments (if Needed)**

This Agenda Item was cancelled since there were no inseason adjustments recommended under Agenda Item E.2.

### **F. Habitat**

#### **F.1 Current Habitat Issues (04/03/07; 9:13 am)**

##### **F.1.a Report of the Habitat Committee**

Ms. Jennifer Gilden provided the agenda item overview.

Mr. Stuart Ellis provided Agenda Item F.1.a, Supplemental Habitat Report. Mr. Ellis talked about educating the recreational community about aquatic invasive species (AIS), and work being done to stop the spread of AIS.

Mr. Sones asked if there are national and international organizations dealing with invasive species. Mr. Ellis said international efforts are limited, but there are efforts to avoid transmission of marine species in the ballast water of ships. He referred the Council to the 100<sup>th</sup> Meridian Initiative website (100thmeridian.org).

Chairman Hansen said PSMFC has been working on this for a long time. Mr. Ellis agreed they have done an effective job of coordinating a multi-agency group to work on this issue.

Mr. Helvey said he was pleased the HC is looking at invasive species. He asked whether there were other invasive species the Council should be aware of. Mr. Ellis said there are problems with invasive plants and other species, like green crabs, that damage estuary areas; this is especially a problem in areas where managed fish stocks live and reproduce. He noted that it is hard to tell how best the Council can focus on this.

Mr. Roth, in response to Mr. Sones' question about national efforts, said that USFWS is addressing this problem on national and regional levels. USFWS takes this very seriously; it is often listed as a threat to endangered species. He discussed the importance of promoting public awareness of AIS, and said the Council can play a role in that effort. He suggested having a presentation on this issue before the Council.

Mr. Corrigan said that USCG does have a ballast water program at the international and national levels. Chairman Hansen asked how long these organisms could live, in terms of changing ballast water at sea. Mr. Corrigan could not answer without more information. Mr. Ellis said that measures like having commercial ships change ballast water at sea, and having boaters wash off their boats, are designed to be easy steps that address most of the problem. However, these measures do not completely solve the problem.

Mr. Sones asked about scientific research done on this topic. Mr. Ellis said there had been some research, but it was limited by resources and by the severity of the measures needed to kill these animals. For example, zebra mussels can be killed with hot water, but with other measures there is a risk of killing other animals and plants as well.

Dr. McIsaac asked about how the eleven wave energy proposals discussed in the HC report would affect fish habitat. Mr. Ellis said that most of the proposals involve anchoring some sort of floating platform to the sea floor. The anchoring would cause some disturbance, and the necessary underwater electrical cables would also disturb habitat. There is also speculation that the electromagnetic field from the generator itself might have effects on fish behavior. However, the HC is not aware of specific data or studies showing specific negative effects. The HC is primarily concerned about who regulates these efforts, where and how they will be sited, and to whom the Council would need to communicate regarding EFH concerns.

Mr. Warrens said he had a conversation with NMFS office in Portland regarding the anchor sites, which are roughly three to six square miles. There may be unforeseen consequences. The marine entanglement issue is one the HC might want to look into. Mr. Ellis said most of the proposals appear to be less than three miles offshore.

Mr. Sones said each of these proposals will go through an EIS, which would allow the Council to comment on them at that time.

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

None.

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

None.

### **F.1.d. Council Action: Consider Habitat Committee Recommendations**

Council discussion – see above during HC Report. Ms. Fosmark said there was concern about the effects of a wave energy project on crabbing grounds in the Trinidad area.

## **G. Salmon Management**

Mr. Dave Ortmann chaired the salmon agenda items.

### **G.1 NMFS Klamath River Coho Recovery Plan (04/03/07; 9:41 am)**

#### **G.1.a Agenda Item Overview**

Mr. Chuck Tracy presented the agenda item overview.

#### **G.1.b NMFS Report**

Mr. Mark Helvey presented Agenda Items G.1.b, NMFS Report and Supplemental NMFS Report.

#### **G.1.c Agency and Tribal Comments**

Mr. Mike Orcutt, Hoopa Valley Tribe, presented Agenda item G.1.c, Supplemental Comments of Hoopa Valley Tribe.

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

Mr. Dave Hillemeier presented Agenda Item G.1.d, Supplemental SAS Report.

Mr. Melcher asked if the reference to single species management referred to harvest management. Mr. Hillemeier replied no, but to single species recovery plans such as suckers and coho in the Klamath Basin.

#### **G.1.e Public Comment**

None.

#### **G.1.f Council Discussion**

Ms. Michele Culver asked if there would be an update on the Klamath coho recovery plan at the June Council meeting. Mr. Helvey replied there were no plans to allow for public comment before the July 7 deadline.

Mr. Melcher requested the Klamath coho recovery plan be coordinated with the ESA recovery plan for southern Oregon/northern California coastal coho to ensure the two plans were compatible.

Ms. Culver requested the Klamath coho recovery plan be made available in early July for review by the SAS and HC.

## **G.2 Tentative Adoption of 2007 Ocean Salmon Management Measures for Analysis**

### **G.2.a Agenda Item Overview (04/03/07; 9:59 am)**

Mr. Tracy presented the agenda item overview.

### **G.2.b Update on Estimated Impacts of March 2007 Options**

Mr. Dell Simmons summarized Preseason Report II, Analysis of Proposed Regulatory Options for 2007 Ocean Salmon Fisheries. He noted catch projection updates for 2007, with Northern British Columbia fishery limits down 20%, West Coast Vancouver Island catch limits down 11%, and Alaskan catch limits down 5%. The changes resulted in a reduction of 0.2% to the lower Columbia River natural (Coweeman) tle Chinook exploitation rate estimates; Interior Fraser coho impacts below the 10.0% limit, Stillaguamish coho impacts below the 40% limit, and; Puyallup and Stillaguamish Chinook impacts still over the ESA limits.

Mr. Melcher asked if the PSC Chinook model was being used to evaluate the Coweeman tle exploitation rate. Mr. Simmons replied no, only the Chinook FRAM was used, although the Snake River fall index used both models because of the more northerly distribution of Snake River fall Chinook.

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

Mr. Mark Cedergreen summarized Agenda Item G.2.c, Supplemental Public Hearing Report 1.

Mr. Moore summarized Agenda Item G.2.c, Supplemental Public Hearing Report 2.

Mr. Roger Thomas summarized Agenda Item G.2.c, Supplemental Public Hearing Report 3.

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

Mr. Melcher reported the PSC held a manager to manager meeting on March 16.

### **G.2.e North of Cape Falcon Forum Recommendations**

Mr. Melcher reported that discussions were ongoing.

### **G.2.f NMFS Recommendations**

None.

### **G.2.g Tribal Recommendations**

Mr. Hillemeier, Yurok Tribe recommended full utilization of Klamath fall Chinook, including allocation of uncaught ocean fish to the inriver fisheries. The options that did not allocate all harvestable fish to the inriver fisheries and resulted in projected escapements greater than 35,000 naturally spawning adults directly affected the tribal allocation. He requested the tentative management measures include allocation to inriver fisheries that brings the spawning escapement down to 35,000 naturally spawning adults.

Mr. Herb Jackson presented Agenda Item G.2.g, Supplemental CRITFC Comments.

Mr. Orcutt presented Agenda Item G.2.g, Supplemental Comments of Hoopa Valley Tribe.

Mr. Melcher asked if the Hoopa Valley Tribe was concerned with the 50% likelihood of escapement under 35,000 if the Council targeted the floor. Mr. Orcutt replied the Hoopa Valley Tribe's primary concern was conservation.

Mr. Lockhart asked if the Hoopa Valley Tribe was requesting the qualifying factors in Amendment 15 be in the regulations, not just the FMP. Mr. Orcutt replied yes

Mr. Sones presented Agenda Item G.2.g, Supplemental Tentative Adoption of Treaty Troll Quotas.

### **G.2.h State Recommendations**

None.

### **G.2.i Reports and Comments of Advisory Bodies (04/03/07; 1:12 pm)**

The SAS presented Agenda Item G.2.i, Supplemental SAS Report.

Mr. Olson noted there was agreement that if the Chinook quota in the non-Indian commercial fishery north of Cape Falcon was taken, a coho only fishery would be allowed in the Columbia River subarea if sufficient impacts for Chinook release mortality were available.

Mr. Lockhart asked what the intent was of having different landing and possession limits north and south of Leadbetter Point. Mr. Olson replied to slow effort transfer from south of Cape Falcon because of the very low Chinook quota north of Cape Falcon, with the possibility of exceeding the commercial quota and impacting the recreational quota.

Mr. Anderson asked if the proposed landing limits would allow access to the coho available in the Columbia River subarea. Mr. Olson replied they would since Chinook abundance in that subarea was typically low compared to coho abundance.

Mr. Melcher noted that historically a 75 Chinook landing limit was considered minimal for economic viability and asked how the SAS arrived at the 30 Chinook per open period landing limit. Mr. Olson replied they looked at the recent value of the fish, which is considerably higher than historical values, and an previous season with a 35 Chinook landing limit that attracted interest from south of Cape Falcon, then reduced the limit to 30 Chinook as a starting point.

Mr. Melcher asked if the 30 Chinook landing limit was adequate for the Columbia River subarea, and if there was concern over the small overall quota why was a 75 Chinook landing limit recommended for the northern subareas? Mr. Olson replied the run to the fishing grounds was longer up north and required greater landings to make the effort worthwhile.

Mr. Heikkila noted the following corrections:

- Page 2, Cape Falcon to Humbug Mt. commercial non-selective coho fishery: Change the Chinook landing and possession limit from 50 per vessel per calendar week to 75 per vessel per calendar week.

Mr. Melcher requested more specificity in the area closure between the Bandon south jetty and Humbug Mt. (Bandon High Spot) in the Florence south jetty to Humbug Mt. commercial fishery. Mr. Heikkila replied the Enforcement Consultants had been provide the coordinates.

Mr. Hillemeier recommended the tentatively adopted management measures include an allocation to Klamath inriver fisheries resulting in an escapement of 35,000 naturally spawning adult Klamath River fall Chinook.

Mr. MacLean noted the following corrections:

- Page 3, Pt. Arena to Pigeon Pt. commercial fishery: strike “and September 30” from the next to last sentence.
- Page 4, Minimum Size table, Pt. Arena to U.S./Mexico border October 3-14 and 26.0 Chinook total length: Change to October 1-12 and 27.0 Chinook total length.

### **G.2.j Summary of Written Public Comments**

Mr. Tracy presented Agenda Item G.2.j, Summary of Public Comment.

### **G.2.k Public Comment (04/03/07; 1:45 pm)**

Mr. Dave Bitts, PCFFA, Eureka, CA

Mr. Ben Platt, Salmon Trollers Marketing Association, Fort Bragg, CA

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA

Mr. Ben Doane, KMZ Fisheries Coalition, Willow Creek, CA

Mr. Jim Welter, KMZ Fisheries Coalition, Brookings, OR

Mr. Steve Wilson, Washington Trollers Association, Federal Way, WA

Mr. Duncan MacLean, Half Moon Bay Fishermen’s Marketing Association, El Granada, CA

Ms. Vojkovich asked if Mr. MacLean proposed to exchange time in July for time in June in the San Francisco and Monterey areas. Mr. MacLean replied he was requesting an analysis of the cost rather than proposing the change at this time.

Mr. Scott Boley, Oregon Salmon Commission, Gold Beach, OR

Mr. Lockhart asked Mr. Boley when the Bandon High Spot closure proposal was first made public. Mr. Boley replied the area was described at the March 2007 Council Meeting and in Preseason Report II, and the trigger in August was first proposed at the March 26, 2007 public hearing in Coos Bay, Oregon.

Mr. Joel Kawahara, Salmon Trollers Marketing Association, Seattle, WA

### **G.2.l Council Action: Tentatively Adopt Management Measures for 2007 Ocean Salmon Fisheries**

The following recommendations were made utilizing, Agenda Item G.2.i, Supplemental SAS Report:

Ms. Vojkovich directed the STT to analyze the SAS proposals in Agenda Item G.2.i, Supplemental SAS Report, as corrected, with additional guidance that the KMZ recreational ocean fishery achieve a 17% allocation and the STT was to report on the relative KRFC impacts of June fishing time in terms of July opportunity for the San Francisco and Monterey commercial fishery.

Mr. Melcher requested a better definition of the Bandon High Spot.

Dr. McIsaac asked if the Bandon High Spot trigger should be included. Mr. Melcher replied yes.

Mr. Anderson concurred with the Council direction, and urged the SAS to continue discussion of the commercial landing limit differences north and south of Leadbetter Point to achieve consensus.

Mr. Sones recommend for tentative adoption and analysis by the STT treaty Indian quotas of: 35,000 Chinook and 38,000 coho with the Chinook quota split 50/50 between the May/June and July-September fishery periods.

### **G.3 Methodology Review Process and Preliminary Topic Selection for 2007 (04/04/07; 11:18 am)**

Mr. Gordy Williams presented Supplemental Informational Report 2.

Mr. Lockhart reported NMFS was waiting on budget clarification before moving forward on the GSI sampling plan for 2007 Oregon and California fisheries, but was planning on providing a study design in the near future.

#### **G.3.a Agenda Item Overview (04/04/07; 11:08 am)**

Mr. Tracy presented the agenda item overview.

#### **G.3.b Scientific and Statistical Committee Report**

Dr. Pete Lawson presented Agenda Item G.3.b, Supplemental SSC Report.

Mr. Melcher asked if the SSC discussed reviewing recovery exploitation rates for Coweeman tule Chinook. Dr. Lawson replied no.

#### **G.3.c State, Tribal, and Federal Agency Recommendations**

None.

#### **G.3.d Reports and Comments of Advisory Bodies**

Mr. Andy Rankis presented Agenda Item G.3.d, Supplemental MEW Report.

Mr. Melcher asked for clarification on the statement that Central Valley Chinook CWT data would not be available for 8-10 years. Mr. Grover replied the constant fractional marking program would not have three full broods available until that time, which would provide production group CWT data and full run reconstruction data.

Mr. Melcher observed that including Central Valley stocks in the FRAM would improve model accuracy north of Cape Falcon as well as south, as would additional tag groups representing lower Columbia River natural tule Chinook.

Mr. Roth asked what the workload and time frame would be to incorporate California stocks into Chinook FRAM. Mr. Rankis replied it would require several people from various agencies at least two years if current CWT groups were representative.

Mr. Grover presented Agenda Item G.3.d, Supplemental STT Report.

Dr. McIsaac asked if the report on recovery exploitation rates for lower Columbia River natural tule Chinook would include genetic information. Mr. Lockhart replied no.

Dr. McIsaac asked if the Klamath River fall Chinook birth date analysis would be ready for review this year. Mr. Grover replied no because the CWT data for years prior to about 2002 are still unavailable.

Messrs. Butch Smith, Kent Martin, and Dan Wolford presented Agenda Item G.3.d, Supplemental SAS Report.

Chairman Hansen asked how fall credit card debt could be forecast. Mr. Wolford replied historical catch rates were one possibility.

### **G.3.e Public Comment**

None.

### **G.3.f Council Guidance on Potential Methodologies to Review in 2007 (04/04/07; 1:10 pm)**

Mr. Melcher recommended potential methodology review topics include the four items identified in Agenda Item G.3.b, Supplemental SSC Report, with the top priorities being the CWT representations for lower Columbia River natural coho and tule Chinook. Other topics to add to the list are the review of the recovery exploitation rate (RER) report identified in Agenda Item G.3.c, Supplemental STT Report, and an analysis of the Klamath River fall Chinook birth date identified in Agenda Item G.3.c, Supplemental SAS Report. The incorporation of California stocks into Chinook FRAM would be a low priority.

Dr. McIsaac asked who would be preparing the report on the Klamath River fall Chinook birth date issue if the CWT data were available. Mr. Melcher replied it should be an STT responsibility.

Mr. Anderson requested the development of the RER for lower Columbia River natural coho be included on the list of topics. Mr. Melcher concurred.

Mr. Roth asked if other stocks south of Cape Falcon could be incorporated into Chinook FRAM ahead of the Central Valley stocks. Mr. Melcher replied that other stocks like KRFC and Rogue River stocks would have relatively minor effects on model performance in comparison to Central Valley stock.

Dr. McIsaac asked if there would be an experimental design for a GSI sampling program available for review this fall. Mr. Lockhart replied NOAA Fisheries would take the lead on that report and make it available in time for review.

## **G.4 Clarify Council Direction on 2007 Management Measures (if Needed) (04/04/07; 2:34 pm)**

### **G.4.a Agenda Item Overview**

Mr. Tracy presented the agenda item overview.

### **G.4.b Report of the Salmon Technical Team (STT)**

Mr. Simmons presented Agenda Item G.4.b, Supplemental STT Report. He noted the Snake River fall Chinook index was misreported at 70.7% and should be 69.4%, and the Skagit coho criteria should be no more than 35% rather than no more than 30%, so the projected exploitation rate of 33% is in compliance; the lower Columbia River natural tule Chinook and Klamath River fall Chinook exploitation rates

exceeded their respective standards and would require additional shaping of fisheries. He reported that KRFC impacts in July were 2/3 the rate of impacts in June for the San Francisco and Monterey troll cells.

Dr. McIsaac asked if the Klamath River recreational fishery was capable of harvesting 9,900 adult Chinook as assumed in the STT analysis. Mr. Grover replied yes.

#### **G.4.c Reports and Comments of Advisory Bodies**

None.

#### **G.4.d Public Comment**

Mr. Joel Kawahara, Washington Trollers Association, Seattle, WA

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

Mr. Melcher recommended changing the Cape Falcon to Florence south Jetty commercial fishery season dates in July, August and September to July 11-30, August 4-28 and September 6-10 and 20-24. Those changes should fully address the KRFC age-4 ocean harvest rate issue, but not quite fully address the Coweeman tule RER issue.

Mr. Sones recommended changing the allocation of the Chinook quota in the treaty Indian fisheries to 21,500 in the May-June fishery and 13,500 in the July-September fishery to help address the Coweeman tule issue.

Mr. Melcher requested the agreement reached in the SAS regarding landing and possession limits in the north of Cape Falcon non-Indian commercial fisheries be included in the package. Mr. Heikkila replied the proposal was impact neutral, and included a landing and possession limits for the May 1-2 and 5-8 open periods of 60 Chinook north of Leadbetter Point and 40 Chinook south of Leadbetter Point, then 60 Chinook north of Leadbetter Point and 30 Chinook south of Leadbetter point thereafter for the remainder of the May-June season; for the June-September fishery the landing limits would be as proposed.

#### **The Council reconvened on Thursday morning at 8:10 am to provide additional guidance.**

Messrs. Simmons and Grover reported that the guidance received Wednesday evening resulted in an age-4 ocean harvest rate on KRFC of 16.1% and additional guidance was necessary to bring the regulation package into compliance with the ESA consultation standard for California Coastal Chinook of no more than a 16.0% ocean harvest rate on KRFC.

Mr. Melcher asked if KRFC were the only stock not in compliance. Mr. Simmons replied Coweeman tules were also close to the ESA limit.

Mr. Melcher directed the STT and SAS to work together on Oregon fisheries by reducing quotas in the June, July and/or August KMZ commercial fisheries to meet the KRFC standard; to change the KMZ recreational season dates to help achieve a 17% share of KRFC impacts for that fishery, and; to modify California commercial and recreational fisheries if additional shaping is needed. Ms. Vojkovich concurred.

**The Council reconvened on Thursday afternoon at 3:45 pm to provide additional guidance.**

Mr. Simmons presented Agenda Item G.5.b, Supplemental STT Report, and noted a modeling error was discovered raising the Coweeman index to 42.3%.

Mr. Melcher observed the modeling error appeared to affect south of Cape Falcon Commercial fisheries and asked for elaboration. Mr. Simmons replied the error occurred in the March Options presented in Preseason Report II. There was also a rounding issue discovered earlier in the day that had some effect.

Dr. McIsaac asked if the change in Coweeman impacts in the north of Cape Falcon non-Indian commercial fishery was also the result of rounding protocol. Mr. Simmons replied no, those fisheries were not modeled with effort scalars like south of Cape Falcon fisheries, but as catch quotas.

Mr. Melcher directed the STT eliminate September 20-24 from the Cape Falcon to Humbug Mt. commercial fishery; change the October 4-10 an 18-24 to October 1-31 in the Cape Falcon to Florence south Jetty commercial fishery; and close the Bandon high spot area in September and October regardless of the 15,000 trigger in August.

Ms. Vojkovich asked if the STT had any flexibility to add or subtract days to achieve the objectives. Dr. Hanson recommended the Council give latitude for individual Council members to work with the STT and Council staff to bring the proposed management measures into compliance prior to initiating Agenda Item G.5. The Council concurred.

**G.5 Final Action on 2007 Salmon Management Measures**

**G.5.a Agenda Item Overview (04/06/07; 8:04 am)**

Mr. Tracy presented the agenda item overview

**G.5.b STT Analysis of Impacts**

Mr. Simmons presented Agenda Item G.5.b, Supplemental STT Report 2; he reported that conservation objectives for all stocks were being met, including the Coweeman tule exploitation rate, although the KMZ ocean recreational fishery share was at 16.2%. The Skagit coho spawning escapement was less than the FMP objective, but met the annual management agreement of a total exploitation rate of no more than 35%.

Mr. Melcher asked if the STT could elaborate on the increase in the non-Indian commercial Coweeman tule impacts from 4.8% to 4.9% with no change in overall quotas. Mr. Simmons replied the change in allocation between the May-June and July-September treaty Indian Chinook quota was the cause.

Mr. Sones asked if a proposed roll-over of up to 5,714 Chinook from the May-June quota to increase the July-September quota by up to 2,000 Chinook in the treaty Indian fishery was modeled. Mr. Simmons replied yes, and that the proposal was impact neutral with respect to Coweeman tules and Puget Sound Chinook.

**G.5.c Agency and Tribal Comments**

Messrs. Kirby Heath and Stuart Ellis presented Agenda Item G.5.c, Supplemental CRITFC Comments.

Mr. George Kautsky presented Agenda Item G.5.c, Supplemental Comments of Hoopa Valley Tribe.

Mr. Sones presented Agenda Item G.5.c, The 2007 Ocean Treaty Troll Fishery.

Mr. Melcher reported that subsequent to the Council direction on Thursday, April 5, the STT was given further direction to reduce September fishing days in the Oregon non-Indian troll fishery to four days in order to comply with the 42.0% Coweeman tule Chinook limit as opposed to the five days the Council initially recommended.

Mr. Anderson noted a proposal would be made to close the Grays Harbor Control Zone during August and September in the Queets River to Leadbetter Point recreational fishery to help achieve the spawning escapement goal for Grays Harbor fall Chinook.

#### **G.5.d Reports and Comments of Advisory Bodies**

None.

#### **G.5.e Public Comment**

None.

#### **G.5.f Council Action: Adopt Final Measures**

Mr. Melcher moved (Motion 13) to adopt for commercial and recreational fisheries for the area Cape Falcon to the Oregon/California border as described in Agenda Item G.5.b, Supplemental STT Report 2, with the following changes:

- Page 2, Cape Falcon to Humbug Mt. commercial fishery: Change “September 7-10” to “September 10-13”.
- Change “landing and possession limit of 75 Chinook per vessel per calendar week in September and October (C.7)” to “landing and possession limit of 150 Chinook per vessel per calendar week in September and 75 per vessel per calendar week in October (C.7)”.

Mr. Moore seconded the motion.

Mr. Melcher explained that the September 7-10 dates straddled two different calendar weeks so the open period was shifted to one week and the landing limit increased.

Motion 13 passed.

Ms. Vojkovich moved (Motion 14) to adopt the commercial and recreational salmon management measures described in Agenda Item G.5.b, Supplemental STT Report 2 for the areas from the Oregon/California border to the U.S./Mexico border. Mr. Thomas seconded the motion; Motion 14 passed.

Mr. Sones moved (Motion 15) to adopt Agenda Item G.5.f, Treaty Indian Ocean Troll; Mr. Warrens seconded the motion. Motion 15 passed.

Mr. Anderson requested Mr. Sones delay action on Motion 15 until the North of Falcon process was concluded.

Mr. Sones moved (Motion 16) to Table Motion 15 until the Washington/Tribal discussions were concluded. Mr. Warrens seconded the motion. Motion 16 passed.

Friday, April 6, 2007, 1:25 pm

Mr. Warrens moved (Motion 18) to untable Motion 15. Mr. Moore seconded the motion; Motion 18 passed.

Mr. Anderson moved (Motion 19) to amend Motion 15 to include the adoption of the final non-Indian commercial and recreational management measures for the area north of Cape Falcon, Oregon as described in Agenda Item G.5.b, Supplemental STT Report 2, with one addition:

- Page 7, Queets River to and Leadbetter Point recreational fishery: add the Grays Harbor Control Zone as an area that would be closed beginning August 1. Mr. Cedergreen seconded the motion.

Motion 19 passed.

Motion 15 passed as amended.

## **H. Pacific Halibut Management**

### **H.1 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries**

Vice Chairman Dave Ortmann chaired this agenda item.

#### **H.1.a Agenda Item Overview (04/04/07; 10:43 am)**

Mr. Tracy presented the agenda item overview.

#### **H.1.b State, Tribal, and Federal Agency Recommendations**

None.

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

Mr. Tom Ghio presented Agenda Item H.1.c, Supplemental GAP Report.

Messrs. Paul Heikkila and Jim Olson presented Agenda Item H.1.c, Supplemental SAS Report.

#### **H.1.d Public Comment**

Mr. Doug Fricke, salmon troller, Hoquiam, Washington

Mr. Sones asked which alternative Mr. Fricke was recommending. Mr. Fricke replied Alternative 2 from Agenda Item H.1, Situation Summary.

Mr. Melcher asked if Mr. Fricke expected salmon trollers to target halibut to take advantage of the opportunity afforded by Alternative 2. Mr. Fricke replied the incidence of targeting would not increase, but if conditions were similar to 2006, where halibut were encountered higher in the water column, trollers would be able to utilize a larger portion of the allocation in 2007 than they were able to do in 2006.

### **H.1.e Council Action: Adopt Final Annual Incidental Halibut Harvest Restrictions**

Mr. Melcher moved (Motion 8) to adopt the status quo alternative for the salmon troll landing restrictions for Pacific halibut caught incidentally in the May/June fishery, including the “C-shaped” yelloweye rockfish conservation area as an area to be voluntarily avoided. Mr. Warrens seconded the motion.

Mr. Melcher felt mitigation for low salmon quotas in the north of Cape Falcon area should be dealt with in the salmon process rather than the halibut process.

Motion 8 passed; Ms. Vojkovich voted no and Mr. Sones abstained.

Ms. Culver moved (Motion 9) to adopt the status quo alternative for landing limits on incidental halibut harvest in the fixed gear primary sablefish fishery north of Point Chehalis. Mr. Cedergreen seconded the motion.

Ms. Culver observed the status quo restrictions have worked well in the last few years.

Motion 9 passed.

## **I. Marine Protected Areas**

### **I.1 Review of Oregon Ocean Policy Advisory Council (OPAC) Report**

#### **I.1.a Agenda Item Overview (04/05/07; 11:15 am)**

Mr. Burner provided the agenda item overview.

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

Mr. John Holloway provided Agenda Item I.1.b, Supplemental GAP Report. Mr. Stuart Ellis provided Agenda Item I.1.b, Supplemental HC Report. Mr. Rod Moore provided Agenda Item I.1.b, Supplemental LC Report.

#### **I.1.c Public Comment**

Mr. Jim Welter, Brookings, OR

#### **I.1.d Council Action: Approve Comments for Submission to OPAC**

Mr. Warrens said this issue of a National Marine Sanctuary on the Oregon coast was first presented to OPAC in 2005. There have since been a number of meetings of the OPAC Marine Sanctuary Working Group. These meetings culminated in the December 15, 2006 status report which is in the briefing book under Agenda Item I.1.a. All OPAC meetings allowed ample opportunity for public input and the meetings were well attended. Mr. Warren's felt the overriding issue that concerns the Council regarding NMSs, is the issue of fisheries management authority. He added that the Council's experience with NMSs in California and to a lesser degree in Washington, has shed some doubt on Governor Kulongoski's stated intent for fishery management authority to remain solely under the jurisdiction of the Council and the State. Mr. Warrens reminded the Council that the Channel Islands NMS has proposed changes to their Designation Document to provide for fishery management authority. In this regard, Mr. Warrens felt that in some degree Governor Kulongoski was ill-advised on the State or the Council's ability to maintain fishery management authority in fishery management.

Mr. Warrens moved (Motion 11) and Ms. Fosmark seconded a motion that the Council accept the GAP report and direct the Council staff to forward the GAP report to Mr. Mike Carrier of Governor Kulongoski's Natural Resources Office including any appropriate language changes that may be recommended in the course of Council discussion.

Mr. Moore said the LC recommended the Council take and action similar to the motion, but also recommended requesting the Council be a continuing part of State deliberations that affect the Council's jurisdiction. Mr. Warrens said the motion also includes the documents received during public testimony.

Ms. Culver said she is in regular communication with the Olympic Coast NMS staff and asked Mr. Helvey about the status of the "flow chart" that compares and contrasts management actions under the MSA and the NMSA and provides descriptions of authorities under the larger NOAA umbrella. Mr. Helvey responded he did not know the status of that report and stated the last time he saw the document it was still a draft. Ms. Cooney added that she did not think it was final yet.

Ms. Culver expressed concerns with forwarding advisory reports as written and would like to make it clear in any Council letter that the GAP statement does not necessarily represent the views of the entire Council. Her concerns were based on her discomfort with some of the wording in the statement and her opinion that some of the statements may not be accurate.

Mr. Warrens stated that his motion would include latitude for Council staff to correct or omit any glaring errors or inaccuracies stated. Mr. Warrens agreed the GAP report may need some edits and the motion would allow Council staff to make those corrections. However, he said that he finds each NMS process to be different from one another and the GAP report reflects that experience. He asked Ms. Culver to provide any specific comments or corrections to the Council staff, but he would still encourage the letter to be sent to the Governor's Natural Resources Office to reflect the intent of the report from the GAP.

Ms. Fosmark asked if the motion includes the supplemental public comments and if so, the accuracies for those comments made in those letters would be reviewed after this meeting. Ms. Fosmark pledged to send any necessary supporting documents.

Mr. Melcher said he is not comfortable with sending the letter without reviewing a draft. Additionally, he has concerns about submitting comments on the NMSP review of the OPAC report as he is reluctant to comment on other people's comments.

In response, Mr. Warrens asked Dr. McIsaac if the letter could be drafted and distributed so that all folks on the Council have an opportunity to make edits before it is finalized. Dr. McIsaac reviewed the Council's review process and felt it could be followed in this example.

Mr. Warrens said the intent of the letter should reflect the comments accurately and it is his desire to rely on Council staff to take the GAP report and make modifications so it is acceptable to all members of this Council.

Mr. Mallet noted the situation summary for the agenda item states Council action as considering a letter to OPAC, not to the Governor's Natural Resource Office. He felt the Council should first tell OPAC what the Council thinks of the proposal and secondly provide them with the public and advisory comments and provide them with a list of the advisors serving on the GAP.

Mr. Warrens said it would be more appropriate to draft the letter to Mr. Carrier of the Governor's Natural Resource Office with the copies going to OPAC members. Mr. Mallet reiterated the letter ought to be the Council's position on this proposal, and then in addition, include the statements from the public and GAP

so the Governor and OPAC understand all of the perspectives and positions accurately. Mr. Warrens agreed.

Ms. Vojkovich voiced her discomfort with how this is developing. She is not supportive of Council staff modifying the GAP statement and preferred their statement be forwarded as they adopted it. She felt the letter should be short and be limited to expressing the Council experience with fishery management in NMS and the Council's desire to stay informed of Oregon's activities and proposals.

Mr. Helvey agrees with Ms. Vojkovich. Based on his experience in California, the NMS approach the Council with goals and objectives already approved. He wondered about adding a third element to the letter requesting clarification on the goals and objectives of an Oregon NMS.

Mr. Sones also agreed with Ms. Vojkovich regarding the GAP statement. The problem of fishery jurisdiction exists in national legislation and the Council should continue to work at that level.

Ms. Fosmark recommended the Council's recent activity on incorporating ecosystem-principles into fishery management should be incorporated into the model.

Mr. Warrens asked to revise the motion to reflect the comments of Ms. Vojkovich, Mr. Helvey and others and that the Council include the GAP statement as written.

Ms. Cooney clarified that the motion includes Ms. Fosmark's recommendation to include language regarding the Council's proposed ecosystem FMP.

Dr. McIsaac reviewed Motion 11. Motion 11 passed.

## **J. Highly Migratory Species Management**

### **J.1 NMFS Report (04/06/07; 8:56 am)**

#### **J.1.a Southwest Region Activity Report**

Mr. Mark Helvey turned the Council's attention to Agenda Item J.1.a, NMFS Report. He also referenced the letter attached as Agenda Item J.1.c, Public Comment, and recommended the Council task the HMSMT to begin examining the regulations for the shallow-set swordfish fishery.

Mr. McIsaac recommended the Council authorize a letter to Mr. Bill Robinson (NMFS PIRO) with a request that he approach the Western and Central Pacific Fisheries Commission (WCPFC) to reschedule the Northern Committee meeting, which is scheduled during the same week as the Council's September meeting. Mr. Helvey concurred.

#### **J.1.b Southwest Fishery Science Center Report**

Mr. Gary Sakagawa provided an update on SWFSC activities. He overviewed upcoming workshops prior to the June Council meeting and potential outcomes.

He alerted the Council that the International Scientific Committee for Tuna and Tuna-like Species (ISC) held a workshop to update the north Pacific albacore stock assessment and that a report is in preparation and to be made public in May; it will be deliberated by the ISC in July. The results are expected to be about the same as reported in 2004.

A March 26 ISC workshop on striped marlin was held and the report is in preparation. Preliminary results indicate that catch and stock biomass are at low levels in comparison to previous years.

Mr. Moore asked for clarification on North Pacific albacore stock status. Dr. Sakagawa said we don't have a proxy for  $F_{MSY}$ , but fishing mortality exceeds those proxies that have been traditionally used.

Dr. McIsaac asked about peer review of the North Pacific albacore stock assessment and the timing of any such activities. Dr. Sakagawa said that U.S. scientists do have a sense that there is international peer review through the workshop process. He explained the ISC process for completing a stock assessment. Ms. Vojkovich asked if there is any industry involvement in the process. Dr. Sakagawa said it is just the scientists, but they may bring in anecdotal information from the fishermen. Dr. McIsaac asked if September would be the most appropriate time for Council review of these stock assessments. Dr. Sakagawa mentioned IATTC involvement, citing the May Stock Assessment Working Group meeting. He discussed the relation between the Inter-American Tropical Tuna Commission (IATTC) process and the WCPFC.

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

Mr. Craig Heberer provided Agenda Item J.1.c, Supplemental HMSMT Report.

### **J.1.d Public Comment**

None

### **J.1.e Council Discussion**

Mr. Moore asked Ms. Vojkovich about current California landing restrictions on longline-caught fish. Ms. Vojkovich said they allow landings as long as the fish have been taken outside of the EEZ.

Ms. Culver asked Mr. Helvey about the current restrictions on shallow-set longlining outside the EEZ. She was confused because the public comment indicated fishing would occur east of 150° W longitude to the EEZ boundary, an area where this fishing is prohibited under the ESA.

Dr. Dahl said his understanding is that the HMS FMP prohibited shallow-set longline west of 150° W longitude; as submitted it would have allowed it east of 150° W longitude. That provision was disapproved based on the ESA section 7 consultation. But Mr. Gibbs (public comment letter) possesses a Hawaii limited entry longline permit which allows him to fish in that area. Mr. Helvey said Mr. Gibbs could also land swordfish in West Coast ports.

Ms. Culver asked what has changed since 2004 that would have any bearing on this activity that the HMSMT could examine. Mr. Helvey said the FMP did not include sea turtle protections as required under the ESA.

Dr. McIsaac said tasking the HMSMT relates to balancing workload, and we will see that under Agenda Item C.7.

To clarify, Ms. Vojkovich said it sounds like there are provisions that could be developed that would meet the ESA requirements; it is not a data issue. It is something that the HMSMT could work on from that perspective.

Ms. Culver said she was not concerned about workload, but whether the HMSMT could do something with this. She recommended that the guidance should be for the HMSMT to look at management measures that could be put in place.

Dr. Dahl said the next agenda item will provide information on mitigation measures in the Hawaii shallow-set fishery, which will speak to the issue of the types of new information that are available relative to considering the shallow-set longline fishery.

Mr. Helvey said the HMSMT would be conferencing with the WPFMC's Pelagics Plan Team in a few weeks and this issue might be an agenda item.

Dr. McIsaac asked if there is any schedule in the FMP relative to amendments. Dr. Dahl said the only schedule he is aware of covers biennial management measures specifications; FMP amendments can come up at any time.

Mr. Ortmann said the Council could task the Executive Director to write a letter to Mr. Bill Robinson (NMFS PIRO) and request the WCPFC Northern Committee meeting be rescheduled for October this year and also in 2008 and beyond to avoid conflict with the September Council meeting. The Council concurred with this guidance. Ms. Vojkovich said we should provide Mr. Robinson with the Council schedule for the next several years.

Mr. Hansen asked if, after hearing Agenda Item J.2, the HMSMT will get better guidance on the issue discussed above in relation to Mr. Gibb's public comment. Dr. Dahl said he thought so and the issue of tasking the HMSMT can be revisited under Agenda Item C.7.

## **J.2 Exempted Fishing Permit (EFP) for Longline Fishing in the West Coast Exclusive Economic Zone**

### **J.2.a Agenda Item Overview (04/06/07; 9:35 am)**

Dr. Kit Dahl provided the agenda item overview.

### **J.2.b NMFS Report**

Ms. Jana Swimmer provided a PowerPoint presentation, available on the Council's website at: [http://www.pcouncil.org/bb/2007/0407/J2b\\_NMFS\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/J2b_NMFS_sup.pdf)

### **J.2.c Reports and Comments of Advisory Bodies**

Dr. Bob Conrad provided Agenda Item J.2.c, Supplemental SSC Report. Mr. Wayne Heikkila provided Agenda Item J.2.c, Supplemental HMSAS Report. Mr. Heberer provided Agenda Item J.2.c, Supplemental HMSMT Report.

### **J.2.d Public Comment**

Ms. Kate Wing, NRDC, San Francisco, CA

Ms. Karen Steele, Turtle Island Restoration Network, San Francisco, CA

Ms. Meghan Jeans, Ocean Conservancy, San Francisco, CA

Mr. Ben Enticknap, Oceana, Portland, OR

Mr. August Felando, commercial purse seiner, San Diego, CA

Mr. Pete Dupuy, Ocean Pacific Sea Food, Tarzana, CA

### **J.2.e Council Action: Adopt a Preferred Alternative for the Longline EFP**

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 17) to adopt as a preferred alternative, alternative 3 as shown in the draft EA (Agenda Item J.2.a, Attachment 1), with the caps as recommended by the HMSMT: 1 short-finned pilot whale, 1 sperm whale, 1 humpback whale, and 12 striped marlin. In addition, caps on leatherback and loggerhead takes will be based on the section 7 consultation incidental take statement (ITS) and caps on seabird takes, if necessary as a result of a section 7 consultation.

Mr. Moore reviewed the information the Council had received and said restrictions are required on the EFP and those restrictions should be based on the best scientific information available. Based on the information received, he thought the EFP should go forward in order to learn about the activity.

Ms. Fosmark said she supports the motion and offered a friendly amendment to let the caps be set based on the outcome of the section 7 consultation, as discussed in the Supplemental HMSMT Report.

Mr. Moore replied his motion is based on the HMSMT recommendations, setting caps for 3 marine mammal species and striped marlin and basing sea turtle and seabird caps on the section 7 consultation. He thought this was the same as what Ms. Fosmark is proposing. Ms. Fosmark said she is proposing to set all of the caps based on the section 7 consultation and that these caps would apply just to this EFP. Mr. Moore said the motion refers to this EFP and the caps, as he understands, are consistent with what Ms. Fosmark is asking for.

Ms. Petras explained that the section 7 consultation conducted by NMFS PRD will cover all ESA-listed marine mammals and sea turtles and the consultation conducted by the USFWS will cover ESA-listed seabirds. Some of the species, such as short finned pilot whales, are under the MMPA but are not ESA listed and striped marlin is ESA listed. Mr. Moore asked if sperm whales are ESA listed. Ms Petras said yes. Then Mr. Moore asked if the ESA section 7 consultation could come up with a number different than the caps proposed by the HMSMT. Ms. Petras said that the cap of 1 sperm whale related to the MMPA potential biological removal (PBR) value, which is a different standard than what is under the ESA. Sperm whales may not be part of the ESA consultation.

Mr. Moore then asked Mr. Feder if there is a conflict between the ESA and the MMPA with regard to the HMSMT recommendation because the section 7 consultation could come up with a number different than the PBR value under the MMPA. In this case what guides us? Mr. Feder said that the action has to conform to both mandates and pointed out that the ITS (resulting from the section 7 consultation) does not establish a take limit, it is simply an estimate of what take levels will result from the proposed action. Mr. Moore then asked what would happen if the Council followed a recommendation where a take was allowed that exceeded the PBR but was less than a value coming out of the ITS. Ms. Petras said that the HMSMT was looking at marine mammals with low PBRs when identifying marine mammal caps; there are processes that are triggered if PBR is exceeded. But generally PBR is something looked at retrospectively and reflects an assessment of the level of removals a population can sustain. It is a different policy decision than what falls under the ESA. Since the likelihood of actual takes for some of these species is remote it may be that under the ESA no concern is raised.

Ms. Fosmark offered a friendly amendment to Motion 17 to allow the section 7 consultation to occur and the outcome of that would set the caps for ESA-listed marine mammals. Both the maker and seconder agreed.

Mr. Myer expressed his opposition to the motion because of the concern that the EFP could lead to a shift of effort from outside the EEZ to inside the EEZ even though he is supportive of the goal of converting drift gillnet vessels to another gear type.

Ms. Culver said she shared Mr. Myer's concerns. She didn't see a clear path from the EFP to any subsequent fishery. Second, an experimental drift gillnet fishery off Washington in the 1980s indicates that the leatherback sea turtle CPUE is significantly higher off of Washington than off of California and Oregon. Therefore a potential longline fishery causes concern, considering this likely higher CPUE. She said the EFP would represent a leap of faith since, prior to a Council decision, NMFS has been unwilling to provide an estimate of the number of turtles that would be taken in the EFP fishery and to set turtle caps prior to getting the ITS. She would like to reach the goal while addressing these concerns about potential elevated takes. For these reasons she will vote against the motion.

Mr. Helvey said it was not the case that NMFS was unwilling to identify caps, but SFD doesn't under section 7 actions. He wanted to address Mr. Myer's and Ms. Culver's concerns about this decision being a "leap of faith" and the long-term goals. The EFP is a first step to answer questions about economic viability. If it is successful further analysis will be necessary to address concerns of other fisheries and the environmental community's concerns. Ultimately NMFS has an interest in looking at more conservative gear types to land swordfish off the U.S. West Coast as a substitute for imports. For these reasons NMFS will vote for the motion.

Mr. Cedergreen also shared Mr. Myer's and Ms. Culver's concerns and the issues the SSC raised in their report. Therefore, he is going to vote against the motion.

Ms. Fosmark, to explain her amendment to the motion, said she wanted to make sure we did not set the caps too low or too high in relation to the ITS. Also, the intention is not to increase fishing opportunity but provide a cleaner (lower bycatch) alternative to drift gillnet gear, and provide product that the U.S. public wants.

Ms. Vojkovich said California state policy on longlines has not changed; therefore, she will be voting no on the motion.

Mr. Moore, speaking to the concerns raised by Mr. Myer and Ms. Culver, said that the way to address concerns about fishing off northern Oregon and Washington is to offer a friendly amendment related to geographical scope rather than throw out the whole EFP. We need to get the initial data in order to take the next steps.

Ms. Culver agreed with Mr. Moore about an amendment if that were her only concern. But it would not address her concern about setting caps based on the ITS. Such caps might address biological concerns but not the other conservation or social concerns that have been raised. Approving the EFP without specifying caps for protected species is not acceptable to her. Without any data available she cannot offer an amendment with numbers for those caps.

Mr. Melcher spoke in favor of the motion. He thinks that the concerns that have been raised will be addressed when moving forward from the EFP. The point of the EFP is to try to make things better, not to expand into new fisheries. A one-vessel test is not going to answer all the questions, but it will provide some answers to some questions.

Mr. Ortmann recognized the good points raised by others. Focusing on the purpose of the EFP, to find cleaner ways to fish, which is what we are supposed to be doing, it is a shame to throw it all away when we have taken it this far. He also said the results should be apparent even if the EFP only involves one vessel and regardless of statistical validity. He considers this to be the least risk approach we could possibly take to look at a cleaner way of fishing. For these reasons he is inclined to support the motion at this point.

Mr. Mallet said he shares the concerns raised by the environmental groups about the need for cleaner fisheries and was impressed by the Supplemental NMFS Report (Agenda Item J.2.b). If the results are somewhat similar to what Hawaii found, that is an indication that it may work. For these reasons he supports the motion.

Mr. Myer, as he said earlier, would like to support the motion and for that reason is going to move to amend the motion to restrict the EFP to south of 45° N latitude. Mr. Cedergreen seconded the amendment to Motion 17.

Mr. Moore, after checking with Mr. Helvey and Dr. Dahl, pointed out that this boundary is the same as the northern boundary of the drift gillnet sea turtle conservation area.

Chairman Hansen asked for the vote on the Motion 17 amendment. The amendment to Motion 17 passed.

Mr. Sones said this is an important issue, and he wanted to speak to the tribes' position. He will vote in favor of the motion because of the need to look at new technologies to reduce impacts and get new information. The U.S. can demonstrate these techniques to international fisheries that have bycatch issues, and put pressure on them to use these technologies. We need to demonstrate cleaner methods to minimize impacts to endangered species. The caps should be stringent and the section 7 consultation should identify the caps levels. The EFP will gather more information about the geographical distribution of total mortality of endangered species.

Dr. McIsaac asked Mr. Moore to go through the catch caps again. Mr. Moore did so. Mr. McIsaac read back the motion with the amendments.

The Roll Call was called on main Motion 17. Motion 17 passed as amended with 9 yes and 4 no votes. Mr. Thomas, Mr. Cedergreen, Ms. Culver, and Ms. Vojkovich voted no.

### **J.3 Albacore Fishing Effort Characterization**

#### **J.3.a Agenda Item Overview (04/06/07; 1:39 pm)**

Dr. McIsaac provided the agenda item overview.

#### **J.3.b Southwest Fishery Science Center Report**

Ms. Suzanne Kohin provided a Powerpoint presentation to the Council. See the following webpage: [http://www.pcouncil.org/bb/2007/0407/J3b\\_SWFSC\\_sup.pdf](http://www.pcouncil.org/bb/2007/0407/J3b_SWFSC_sup.pdf)

#### **J.3.c Reports and Comments of Advisory Bodies**

Dr. Conrad provided Agenda Item J.3.c, Supplemental SSC Report. There were several questions about the SSC's recommendation to use partial F values. Dr. Fox discussed the intent of the IATTC and WCPFC resolutions and pointed out that they called for characterization of fishing effort, not fishing mortality.

Mr. Heberer provided Agenda Item J.3.c, Supplemental HMSMT Report. Mr. Wayne Heikkila provided Agenda Item J.3.c, Supplemental HMSAS Report. There were several questions relating to the differences between the HMSMT and HMSAS recommendations.

### **J.3.d Public Comment**

Mr. Wayne Heikkila, Western Fish Boat Owners Association, Redding, CA  
Mr. Chip Bissell, American Albacore Fishing Association, Oak View, CA  
Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA

### **J.3.e Council Action: Take final Action to Adopt, or Adopt for Public Review, a Characterization of Historical U.S. North Pacific Albacore Fishing Effort**

Ms. Vojkovich said there are still some questions about how to transmit this information to the right people, such as the delegations to the IATTC and WCPFC. Having said that, they should be given as much information as possible.

Dr. McIsaac said it would be useful for the Council to make a statement that U.S. albacore fishing effort is not increasing, which can be transmitted to the IATTC, since the State Department may not be aware of that. In addition, there are U.S. Commissioners that might want to know that the Council has looked at this. Further, any agreement or conclusion about U.S. effort, and any assignments, should be put on the record.

Mr. Moore agreed with Ms. Vojkovich that as much information as needed should be provided to the U.S. delegations, through whatever is the appropriate channel. As far as the Council revisiting this, he didn't think it would be necessary as long as the Council agreed on the methodology.

Mr. Melcher said the partial F component should not be included, but just to the characterization of effort presented by the HMSMT. He also agreed with the previous comments about providing these data to the U.S. delegations. Finally, if we can make a statement that effort is not increasing, we should.

Ms. Culver provided guidance that the Council should accept all of the information presented to us from the SWFSC and HMSMT and forward that information to the U.S. delegation and that the Council include a statement based on all that information that we do not believe albacore fishing effort is increasing. The Council concurred with this guidance.

Mr. Helvey asked if Mr. Melcher supported including the partial F method of characterization. Mr. Melcher said he did not recommend including it. Ms. Culver agreed.

Ms. Vojkovich commented that the Council needs to ensure that better information is circulated on these issues so there is less confusion, for example so the SSC better understood the original assignment in this case.

Dr. Dahl asked for clarification on whether Council guidance was to include or not include any further analysis of the partial F method. Ms. Culver said the guidance is to not work further on partial F and not to forward that to the U.S. delegation.

### **J.4 Yellowfin Tuna Overfishing**

#### **J.4.a Agenda Item Overview (04/06/07; 2:54 pm)**

Dr. Dahl provided the agenda item overview. The Council decided to combine this agenda item with Agenda Item J.5.

## **J.5 COP for Making Highly Migratory Species Recommendations to Regional Fishery Management Organizations**

### **J.5.a Agenda Item Overview (04/06/07; 3:05 pm)**

Dr. Dahl provided the agenda item overview.

### **J.5.b Reports and Comments of Advisory Bodies**

Mr. Moore provided Agenda Item J.5.b, Supplemental LC Report. Dr. Steve Wertz provided Agenda Item J.5.b, Supplemental HMSMT Report. Mr. Heikkila provided Agenda Item J.5.b, Supplemental HMSAS Report.

### **J.5.c Public Comment**

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA  
Mr. Peter Flournoy, International Law Offices, San Diego, CA

### **J.5.d Council Action: Adopt COP for Public Review and Make Related Recommendations**

Mr. Moore moved (Motion 20) to have the Executive Director continue to work on the MOU and incorporate the suggestion of the LC to add the Chair of the GAC to the WCPFC advisory committee and the recommendations of the HMSAS to replace the seat for one Pacific Council area albacore troll fishery representative with a commercial at-large representative in a number equivalent to the number designated for Western Pacific region commercial representatives. Mr. Warrens seconded the motion.

Ms. Culver asked if the Council was taking final action on the MOU.

Mr. Moore said the motion is not to take final action but to continue to negotiate the MOU along with these changes. Ms. Culver asked if there will be future review of the MOU by the Council. Mr. Moore said he presumes the Executive Director will report back to the Council during the negotiation process. Dr. McIsaac emphasized that the negotiations will be a long process and Council members may be involved in the final stage of negotiation. He expects the MOU will come before the Council one or more times before it becomes final.

Ms. Vojkovich said there should be some legal guidance provided in addition to the work of the three Executive Directors.

Mr. Helvey said that the State Department and the two Regional Administrators will discuss the draft MOU shortly and will provide comments to the Council Executive Directors in the near future.

Ms. Fosmark asked about seeking an HMS exemption from the MSRA ACL/AM provisions (MSA sec. 303(a)(15), as amended). Mr. Moore said he would address that in a later motion.

Motion 20 passed.

Mr. Moore moved (Motion 21) to send the draft COP out for public review and comment, along with the non-substantive edits proposed by the HMSAS. Mr. Warrens seconded the motion. Motion 21 passed.

Mr. Moore noted that the Council earlier directed the advisory bodies to provide scoping comments to NMFS on the items discussed under agenda item C.2 (MSA reauthorization). He moved (Motion 22) to

include the statement from the HMSAS Supplemental Report that the EIS thoroughly review the effect of conflicting international treaty obligations and other statutes on the new MSRA requirements under sec. 303(a)(15) (MSA as amended) as part of the package sent under agenda item C.2. Mr. Warrens seconded the motion.

Mr. Moore said this was an effort to state the issue raised by the two questions in the HMSAS Report.

Ms. Cooney said that any member of the public can submit additional comments before the scoping period ends.

Motion 22 passed.

## **J.6 Council Recommendations on Conservation Measures to be Considered by the Inter-American Tropical Tuna Commission (IATTC)**

### **J.6.a Agenda Item Overview (04/06/07; 4:10 pm)**

Dr. Dahl provided the agenda item overview.

### **J.6.b Reports and Comments of Advisory Bodies**

Dr. Steve Stohs provided Agenda Item J.6.b, Supplemental HMSMT Report.

### **J.6.c Public Comment**

Mr. Peter Flournoy, International Law Offices, San Diego, CA

### **J.6.d Council Action: Identify Recommendations to the U.S. Delegation to the IATTC on Measures to Conserve Bigeye and Yellowfin Tuna**

Ms. Vojkovich echoed the discussion in the situation summary suggesting that the Council revisit this issue at the June meeting and have a verbal exchange with one or more IATTC Commissioners.

Ms. Culver asked Mr. Helvey whether he thought the Council should respond to the letter from Mr. McInnis (Agenda Item J.4.b, Supplemental NMFS Report) indicating that yellowfin tuna would be subject to sec. 304(i) of the MSA, as amended. She also pointed out that the language in this section is conditional on whether there is an international agreement to end overfishing and wondered if any action should be taken before the June IATTC meeting, when such an agreement might be reached. The Supplemental HMSMT Report under Agenda Item J.4.b recommended that no additional domestic regulations are necessary at this time (MSA sec. 304(i)(2)(A)); recommendations for actions at the international level (MSA sec. 304(i)(2)(B)) may also be unnecessary contingent on the results of the IATTC meeting. Then the Council wouldn't have to do anything at all.

Mr. Helvey asked for clarification.

Ms. Culver said, first, that she thought the Council did not need to adopt any recommendations before the June IATTC meeting, and given the new timeline triggered by Mr. McInnis's letter (which establishes a one-year time period starting March 30, 2007) we have more time to discuss whether the Council needs to respond at all to the MSA sec. 304(i) requirements. Mr. Helvey said the Council did not need to respond to Mr. McInnis's letter with the type of discussion Ms. Culver outlined. But he did think that the Council

should provide some recommendations to the U.S. delegation in order to set a precedent for how the Council is involved in this process.

Ms. Vojkovich discussed the timing of IATTC and Council meetings and pointed out the difficulties of the Council becoming engaged prior to the June IATTC meeting. Ms. Vojkovich said she agreed with Mr. Helvey; if we drop out of the process at this point it may signal a lack of interest.

Dr. McIsaac agreed that this Council meeting was the opportunity to meaningfully weigh in with recommendations to the IATTC. He then reviewed the information that had been presented at this meeting, saying there was not a lot of information to consider, but it was more than in the previous year.

Mr. Helvey mentioned the new IATTC representative on the HMSMT, who may provide an opportunity to get some advance information in future years.

Ms. Culver wondered what guidance Mr. Helvey could give in this situation. While recognizing the timing problems, he encouraged the Council to stay involved in the process for this cycle.

Ms. Vojkovich wondered if the general comments in the HMSMT Report could be the basis of a set of recommendations.

Mr. Helvey suggested that some of the elements of the U.S. proposal put forward at the February ad hoc IATTC meeting could also be referenced in a recommendation.

Dr. Dahl provided a summary of the guidance received, stating that staff will draft a letter over the Chairman's signature containing elements of the discussion in the HMSMT report and the U.S. delegation proposals from the February IATTC meeting. Also, the Council indicated it would not be productive to revisit this issue at the June Council meeting. Finally, subsequent to the June IATTC meeting, the HMSMT may need to revisit this to develop more specific proposals to satisfactorily address the MSA requirements.

**ADJOURN**

The 188<sup>th</sup> Council meeting was adjourned at 5:16 pm on Friday, April 6, 2007.



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**Council Chairman**

**June 15, 2007**

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**Date**