

MINUTES
Pacific Fishery Management Council
April 2-9, 2009
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A. Call to Order

Mr. Don Hansen, Chair, called the 198th meeting of the Pacific Fishery Management Council (Council) to order on Saturday, April 4, 2009 at 9 a.m. A closed session was held from 8 a.m. to 8:30 a.m. to discuss litigation and personnel matters.

A.2 Roll Call

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

Mr. Mark Cedergreen (Washington Obligatory)
Mr. Brian Corrigan (US Coast Guard, non-voting, designee)
Ms. Michele Culver (Washington State Official, designee)
Ms. Kathy Fosmark (California Obligatory)
Mr. Donald Hansen, Chairman (At-Large)
Mr. Mark Helvey (National Marine Fisheries Service, Southwest Region)
Mr. Jerry Mallet (State of Idaho 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)
Ms. Marija Vojkovich (State of California Official)
Mr. Frank Warrens (Oregon Obligatory)
Mr. Gordon Williams (State of Alaska Official, non-voting)
Mr. Steve Williams (State of Oregon Official)
Mr. Dan Wolford (At-Large)

The following Council member was absent on April 4 and 5: 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. McIsaac provided the Council with an overview of the Informational Reports, budget status, and Council staff ideas on how to make Council meetings more environmentally friendly. Mr. Tim Roth spoke to Informational Report 1 which is the standard annual report of the Fish and Wildlife Service (USFWS) reporting on mass marking of salmon at USFWS Columbia River hatcheries. Ms. Marija Vojkovich spoke to Supplemental Informational Report 2 regarding the constant fractional marking/tagging program for hatchery reared Central Valley and Klamath River fall-run Chinook salmon.

A.4 Council Action: Approve Agenda

The Council approved the agenda as shown in Agenda Item A.4, April Council Meeting, with the following change: Remove Agenda Item G.4, Review of Proposed Rule on Council Statement of Organization, Practices, and Procedures. (Motion 1)

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Management Entity and Advisory Body Comments

None.

B.1.b Public Comments

There was one written public comment from Oceana to National Marine Fisheries Service (NMFS) regarding NMFS reliance on experimental fishing permits to continue the Pacific whiting shoreside fishery's monitoring program.

Ms. Erika Feller, The Nature Conservancy (TNC). Spoke about the TNC exempted fishing permit (EFP) which seeks to support the Morro Bay fishing community and encourage switching from trawl gear to more environmentally friendly gear. She also spoke about the role of community fishing associations (CFA) and adaptive management programs (AMP).

Mr. Larry Collins, San Francisco Crab Boat Owners Association, San Francisco, CA. Mr. Collins testified in support of the decision made in March 2009 to maintain the open access fishery and not go to "B" permits.

Mr. Joel Kawahara, salmon troller, WA. Read from a letter he addressed to Dr. Lubchenco, which welcomed her and spoke to the Endangered Species Act (ESA) listed salmon situation, the Pacific Salmon Treaty, and other salmon issues (the letter can be found on the Council website under Agenda Item B.1.).

B.1.c Council Discussion of Comments as Appropriate

None.

C. Habitat

C.1 Current Habitat Issues (04/04/09; 10:25 a.m.)

C.1.a Agenda Item Overview

Ms. Jennifer Gilden provided the agenda item overview.

C.1.b Report of the Habitat Committee

Mr. Stuart Ellis provided Agenda Item C.1.b, Supplemental HC Report.

Mr. Moore asked about expansion of offshore wind energy projects, and asked the Habitat Committee (HC) to help the Council track their development.

Ms. Culver asked if the HC discussed the Olympic Coast National Marine Sanctuary (NMS) Management Plan Review process. Mr. Ellis said yes, but there isn't a lot of new information to report. The HC continues to track this.

C.1.c Reports and Comments of Agencies and Advisory Bodies

None.

C.1.d Public Comment

Mr. Dave Bitts, Pacific Coast Federation of Fisherman's Association (PCFFA), San Francisco, CA. His comments related to concerns over the impacts of hydrokinetic energy.

C.1.e Council Action: Consider Habitat Committee Recommendations

Ms. Culver noted, in regard to the HC recommendation, that a schedule for the five-year Essential Fish Habitat (EFH) review process be developed, groundfish Amendment 19 contains a process and schedule for the five-year review. Ms. Gilden said the HC was concerned that the EFH review process was rushed. Ms. Culver asked if the HC had the schedule in front of them when they discussed this. Ms. Gilden said they did not.

Mr. Warrens said he believed the EFH review was to take place every five years, with an interim review of more urgent EFH issues. The EFH Review Committee (EFHRC) will meet next month and we will have more details after that meeting.

D. Highly Migratory Species Management

D.1 National Marine Fisheries Service (NMFS) Report (04/04/09; 10:41 a.m.)

D.1.a Southwest Region Activity Report

Mr. Mark Helvey spoke to Agenda Item D.1.a, Attachment 1, which provides an update on the Highly Migratory Species (HMS) Fishery Management Plan (FMP) permit fee final rule, proposed rule to address illegal, unregulated, and unreported (IUU) fishing activities, HMS recreational shark and albacore Marine Recreational Information Program (MRIP) proposals, an Office of Coastal Resource Management (OCRM) letter to the California Coastal Commission (CCC) denying their request for reconsideration of a consistency review of the shallow-set longline EFP, status of white paper on albacore management options, first biennial IUU fisheries report to Congress, and the upcoming Inter-American Tropical Tuna Commission (IATTC) meetings.

D.1.b Southwest Fisheries Science Center Report

Dr. Gary Sakagawa, Southwest Fisheries Science Center (SWFSC), said Dr. Squires will give a presentation on the Swordfish and Leatherback Use of Temperate Habitat (SLUTH) Workshop. In addition there will be a brief presentation on thresher shark research at the SWFSC. Dr. Sakagawa reported on personnel changes for the Southwest Region (SWR). Mr. Norm Bartoo is acting director for SWFSC. Ms. Lisa Bolons is heading up protected species research, including the SLUTH project. Mr. Scott Benson is also supporting the SLUTH project. Mr. Russ Vetter is now in charge of fishery resources research at the SWFSC, supervising research on HMS fisheries among other things. Also, Mr. Churchill Grimes will provide support for ecological and environmental issues. Dr. Sakagawa spoke about the IATTC stock assessment review meeting upcoming in May; SWFSC personnel will participate in that review. Dr. Sakagawa reviewed the current and upcoming activities of the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC) and the Western and Central Pacific Fisheries Commission (WCPFC) Scientific Committee, which SWFSC personnel will be involved in.

Dr. Dale Squires and Mr. Scott Benson gave a report about the activities of SLUTH project. (The accompanying PowerPoint presentation is available on the Council's website at http://www.pcouncil.org/bb/2009/0409/D1b_SUP_NMFS_PPT_0409.pdf.)

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

Mr. Doug Fricke provided Agenda Item D.1.c, Supplemental HMSAS Report.

D.1.d Public Comment

None.

D.1.e Council Discussion on NMFS HMS Report

Mr. Moore asked Mr. Helvey about scheduling of the presentation of the albacore white paper to the Council in June in light of the HMS Advisory Subpanel's (HMSAS) request for delay to accommodate the fishing season. How could this be handled? Mr. Helvey said the intent was to present that paper to both the HMSAS and HMS Management Team (HMSMT) at the June meeting. If there is a scheduling issue, then advice would be welcome. Mr. Moore asked when the next HMSAS and HMSMT meetings are scheduled and Dr. McIsaac replied that it would be taken up during the Agenda Item planning under G.5 on Thursday.

Ms. Culver asked Mr. Helvey how the albacore white paper might relate to the IATTC process and potential Council recommendations to that body. Mr. Helvey said delivery of the white paper was not connected to the timing of the IATTC process since they work on a different schedule altogether with respect to albacore and noted that the IATTC focuses more on the tropical tuna species. Mr. Helvey suggested that the WCPFC Northern Committee might be a more appropriate body for making recommendations vis à vis albacore management.

Ms. Fosmark suggested the presentation of the albacore report could be delayed to the March 2010 Council meeting.

D.2 Fishery Management Plan Amendment 2 - High Seas Shallow-Set Longline (04/04/09; 1:05 p.m.)

D.2.a Agenda Item Overview

Dr. Kit Dahl provided the agenda item overview. Dr. Stohs and Dr. Dahl provided an overview of the alternatives and draft analysis.

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

Dr. Steve Ralston provided Agenda Item D.2.b, Supplemental SSC Report. Ms. Vojkovich asked whether the preliminary draft Supplemental Environmental Impact Statement (SEIS) analysis was sufficient to determine the relationship between potential environmental and socioeconomic impacts. Dr. Ralston said it gives a qualitative assessment of possible trends. Ms. Vojkovich asked if a fully observed fishery would provide information on takes and catches. Dr. Ralston said that observer data would provide additional information on catches and takes in areas where there is little or no data now. Mr. Wolford asked for clarification of the last sentence in the SSC report with respect to considering ecosystem impacts. Dr. Ralston said that it referred to the tradeoff between impacts of the drift gillnet

fishery and the proposed shallow-set longline fishery, looking at impacts comprehensively. Ms. Fosmark asked if the analysis accounted for the use of circle hooks and mackerel type bait. Dr. Ralston said that those effects are accounted for in the analysis.

Mr. Doug Fricke provided Agenda Item D.2.b, Supplemental HMSAS Report. Ms. Vojkovich, Ms. Culver, Mr. Myer, Mr. Moore, and Mr. Wolford asked several questions related to the transfer of effort from the California drift gillnet (DGN) fishery and other fisheries and latent permits in the DGN fishery. The questions were also related to the proposal in the HMSAS Report to tie permits in the proposed fishery to DGN permits.

At this time, Ms. Fosmark said she will recuse herself from voting on this issue, but will be participating in the discussion.

Mr. Steve Stohs provided Agenda Item D.2.b, Supplemental HMSMT Report. Ms. Culver asked whether the recommendation that the sea turtle take caps be based on the incidental take statement meant the Council should not make a recommendation on this. Mr. Stohs said that the Council could use results of the incidental take statement to make a recommendation for lower caps, if appropriate. Mr. Moore asked if the HMSMT discussed with the HMSAS their idea of a review panel. Mr. Stohs said they had not.

D.2.c Public Comment

Mr. Bob Osborn, United Anglers of Southern California, Huntington Beach, CA
Mr. Ken Hinman, National Coalition for Marine Conservation, Leesburg, VA
Ms. Meghan Jeans, Ocean Conservancy, San Francisco, CA
Mr. Ben Enticknap, Oceana, Portland, OR
Mr. Pete Depuy, Longline fisherman, Tarzana, CA
Mr. Steve Fosmark, F/V Seadler, Pebble Beach, CA
Mr. Doug Fricke, Commercial Fisherman, Hoquiam, WA

D.2.d Council Action: Adopt Final Preferred Alternative

Dr. Dahl provided a recap to the Council members of the alternatives (Agenda Item D.2.a, Supplemental Attachment 3) and Council decision points.

Mr. Roth commented on potential seabird impacts, referring to the summary of impacts on page vi of the Executive Summary in the preliminary draft SEIS. He discussed and clarified the 12-month status review process on the petition to list black-footed albatross, findings in the biological opinion for the HMS FMP with respect to short-tailed albatross, proposed seabird mitigation measures, and the use of information from the Hawaii fishery to estimate seabird captures in the proposed fishery. He also noted that the SEIS neglected to consider impacts to brown pelicans. He commented on the need for NMFS to submit reports to United States Fish and Wildlife Service (USFWS) required by the HMS FMP biological opinion and potential re-initiation of consultation on the FMP.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 2) to adopt the following as the final preferred alternative for the HMS FMP Amendment 2 - High Seas shallow-set longline (SSLL):

Alternative 2: Limited Entry

Area Closure	Closed west of 140° W. longitude
Gear Requirements	Part of the alternative; no Council decision required
Sea Turtle Take Caps	Deferred and set by the Council following completion of the biological opinion
Number of LE Permits	10
Limit on LE Permit Transfer	2 years plus some minimum landings as recommended by the HMSAS.
LE Permit Qualification Option	Defer specifying an option for the time being
Prohibition on Simultaneous use of Hawaii LE Permit	Part of the alternative; no Council decision required
LE Permit Application and Issuance	HMSAS Recommendation
Seabird Mitigation Measures	Same as or equivalent to Hawaii regulations (60 CFR 665.35)

Also add to the Alternative: Cannot use SSSL permit and a DGN permit in the same year.

Mr. Moore spoke to his motion, noting that the proposed SSSL fishery would reduce bycatch in comparison to the DGN fishery. He also said that using the appropriate mitigation measures would reduce the sea turtle and seabird impacts to an acceptable level while providing swordfish to the American public, which would not come from foreign fleets using such measures.

Motion 2 was not voted on. Instead Ms. Culver offered the following substitute motion (Motion 3, seconded by Mr. Wolford) to adopt Alternative 1 (No Action), to stay with the status quo as the final preferred alternative for the HMS FMP Amendment 2 - High Seas SSSL, and task the Council staff and HMSMT to revise the Environmental Impact Statement (EIS) to include the comments from USFWS pertaining to seabirds and the comments from the SSC as contained in Agenda Item D.2.b, Supplemental SSC Report.

Ms. Culver spoke to her motion by saying that she was concerned that the action alternatives would not provide an effort limitation on the fishery. The turtle take caps would close the fishery for the remainder of the year, but the fishery would continue in future years. Furthermore, the proposed longline fishery would have merit if it were coupled with a proposal to close the DGN fishery, but she didn't see that in the proposal. She also discussed the number of latent permits in the DGN fishery, which could be used to replace any vessels that shift out of the DGN fishery and into the proposed SSSL fishery. She is also concerned that the government would be funding the observer coverage and additional funding would be needed to maintain current levels of coverage on the existing fishery as well as coverage for the proposed fishery. She noted the sources of mortality from foreign fisheries which the proposed fishery would add to. She is also unconvinced that the proposed fisheries would provide enough swordfish to make any appreciable difference in meeting U.S. demand, especially if foreign providers compensate with lower prices. She noted her concern about potential finfish bycatch, as well as marine mammal and seabird takes. With respect to finfish she noted the current status of bigeye, yellowfin, and albacore tuna, and the need for the U.S. to not increase fishing effort on these stocks.

Mr. Wolford said he seconded the motion because of his concern about increased bycatch and the possibility that latent permits in the DGN fishery would be reactivated. He said if this proposal was linked with an absolute retirement of latent DGN permits he would be much happier with the proposal. He wondered if the fishery would be closed when the bycatch limits are reached and how it would relate to bycatch in the DGN and Hawaii SSSL fisheries. Finally, he felt he needed more information about the

preparation of the biological opinion and whether it could be a zero sum game so that any increase in takes in this fishery would be compensated by reductions in other fisheries. He said that Mr. Moore's motion went a long way in addressing his concerns but not far enough for him to support it.

Ms. Vojkovich asked Ms. Culver about her direction to make revisions in the SEIS; this didn't imply that the document would be brought back to the Council for subsequent decision-making? Ms. Culver said that was correct.

Mr. Helvey said he had a lot of concerns about the substitute motion. First, with respect to Ms. Culver's discussion of foreign fisheries' impacts, he wanted to emphasize that U.S. fisheries are heavily regulated and our fishermen can do it better. We can then depend more on these more regulated, lower impact fisheries. In addition, U.S. fisheries can provide information that can be supplied to other nations in order to encourage them to adopt mitigation measures. With regard to bycatch limits, he said that the longline fishery is a little bit cleaner than the DGN fishery and there are higher survival rates for released organisms. The use of circle hooks has a lot to do with this. He felt that the Council has an opportunity to do something positive in a small way. Longline fisheries are the number one way of catching swordfish and he asked whether the Council wanted to be part of the solution of improving these fisheries.

Mr. Moore clarified that he did not specify the limited entry permit qualification option with the intent of coming back to it later with a new analysis. When the Council comes back to that issue, that proposal can be shaped to address the latent DGN permit issue. With regard to tying DGN permits to SSLL permits, he thinks it's a good idea, but the problem is that the DGN is a state permit and the Council and NMFS cannot direct the state what to do with those permits. With regard to observers he was deliberately vague because he said it would be addressed during implementation, including the possibility that fishermen pay the cost of observers. Finally, he emphasized that the motion called for 10 permits, not 20 as Ms. Culver indicated when discussing her motion.

Ms. Culver responded that she was referring to the DGN permits of which there are approximately 20 latent permits. Therefore, there is a potential for an increase in effort by activating these permits.

Mr. Myer talked about how he has been on both sides of this issue. However, he didn't see this proposal as addressing the concern of transitioning fishing effort from the DGN fishery to longline. He also was unconvinced that import substitution would have an effect on reducing the level of fishing effort and sea turtle takes by foreign fisheries. In sum, any action taken by the Council is an additive effect and the cost of the proposal outweighs the benefits and so he will support the substitute motion.

Mr. Sones said he was concerned about the bycatch issues and the Council shouldn't support fisheries that aren't clean. But from a conservation perspective he thought it is important to demonstrate our management philosophy to the world through this proposed fishery. This includes 100 percent observer coverage to document the effects of the fishery and allowing more efficient and sustainable fisheries while addressing ESA concerns. If we just turn away from this fishery we will not be saving any more turtles. In summary, he is struggling with this but he felt the Council will be far more effective in dealing with the longline issue by getting involved in management of a fishery. Alternative 2 would address this issue and he would vote against Ms. Culver's motion.

Ms. Fosmark discussed some background on the DGN fishery. She talked about the Council's recommendation of an EFP for the DGN fishery (which was subsequently not approved by NFMS). She also said that the DGN fishery currently has observer coverage and if they switch over to longline those observers could be used. She also said there are a lot of swordfish imports right over the border from Mexico and she felt the proposed fishery could impact those imports. She also felt like the Council was

regulating fisheries out of existence. She then discussed the difficulty of transferring a DGN permit; the latent permits were individuals holding on to the permits in the hope that in the future they could use them if current restrictions on the DGN fishery were eased. She didn't see them as replacing any effort that shifted into the proposed fishery. She noted that other Council managed fisheries, such as groundfish have protected species impacts but we don't shut them down. This is an opportunity to make things better, rather than just shutting down fisheries.

Ms. Culver responded to Mr. Helvey's and Mr. Sones comments on the opportunity to collect data and demonstrate fishing practices to other countries; the opportunity already exists with the Hawaii fishery.

Mr. Helvey responded that the Hawaii fishery is in a different ecosystem than the proposed fishery so it would collect new information that may be more applicable to certain other areas of the world. He referenced a recent scientific paper written by SWFSC on billfish survivability on circle hooks, which demonstrates it's improved from J-hooks.

Ms. Culver said that the proposed fishery would have the same measures as the Hawaii fishery so it would produce the same data.

Mr. Warrens said that Appendix D in Agenda Item D.1.b, Attachment 1 shows that that the SLL gear has lower bycatch rates compared to DGN. He is also bothered that status quo denies the opportunity for U.S. fishermen to participate in this fishery to demonstrate how clean a fishery it is. Status quo turns a blind eye on a better way of doing business.

Mr. Williams said he is also torn on this issue. He originally thought that tying the DGN permit to the proposed permit would solve the problem, but the discussion has raised questions in his mind. He is not convinced that the latent permits would be activated. He also said the Council has searched for better ways of doing business, and the information on bycatch indicates that the proposed fishery would be an improvement. However, he still has concerns and is undecided.

Mr. Wolford said the issue of tying the two fisheries together goes beyond the question of latent permits. He said that the bycatch limits in the DGN fishery should be reduced to compensate; his problem is that this proposal has an additive effect.

Ms. Fosmark said that latent permits would not enter either the proposed fishery or the DGN fishery because they are owned by people adjacent to the current Pacific Leatherback Conservation Area.

Mr. Hansen called for the vote on Motion 3, the substitute motion. Motion 3 passed on a roll call vote: Mr. Helvey, Mr. Williams, Mr. Sones, Mr. Warrens, and Mr. Moore voted no; Ms. Fosmark recused herself. The motion passed without Chairman Hansen's vote.

D.3 Fishery Management Plan Amendments to Implement Annual Catch Limit Requirements

D.3.a Agenda Item Overview (04/05/09; 10:02 a.m.)

Dr. Dahl provided the agenda item overview. He noted corrections to the text of the situation summary. First, it states that the revised National Standard 1 Guidelines must be implemented by 2010 for those species designated as overfished when in fact the requirement applies to stocks subject to overfishing. Second, it states that the international exception does not apply to specifying acceptable biological catches (ABC); the exception does apply to ABCs but not to status determination criteria (SDCs).

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

Dr. Steve Ralston provided Agenda Item D.3.b, Supplemental SSC Report. Mr. Doug Fricke provided Agenda Item D.3.b, Supplemental HMSAS Report. Dr. Steve Stohs provided Agenda Item D.3.b, Supplemental HMSMT Report.

D.3.c Public Comment

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

D.3.d Council Action: Scope and Plan FMP Amendments to Implement ACL Requirements

Dr. McIsaac asked Mr. Judson Feder, National Oceanic and Atmospheric Administration (NOAA) General Counsel (GC), if the Council could follow the recommendation made by Ms. Meghan Jeans in public comment not to comply with the final rule because it misinterprets statutory intent. Mr. Feder said as an adopted final rule these are now the agency's National Standard 1 Guidelines. As guidelines, the Council has flexibility in how to apply them; however, the final rule preamble clearly shows that NMFS considered and rejected the interpretation that Ms. Jeans spoke to. Specifically, fish stocks subject to management by a regional fishery management organization (RFMO) are exempt from the requirement to specify annual catch limits (ACLs).

Dr. McIsaac referred to page 2 in the Ocean Conservancy Supplemental Public Comment, asking whether the use of the word "shall" in Magnuson-Stevens Act (MSA) Section 104(b) limits the Council's discretion to establish ACLs for internationally managed species. Mr. Feder said he did not think so.

Mr. Moore asked Mr. Feder, conversely, could the Council choose to accept NMFS's interpretation instead of Ocean Conservancy's interpretation, to not establish ACLs for internationally managed species. Mr. Feder said that of course the Council could follow NMFS's interpretation.

Ms. Vojkovich asked Dr. Dahl to explain the schedule for completion of the FMP Amendment. She was concerned that the HMSMT may need additional Council guidance before bringing a finished product before the Council.

Dr. Dahl said there would need to be one or more meetings of the HMSMT and the Scientific and Statistical Committee (SSC) HMS Subcommittee and perhaps the HMSAS. He was unsure whether the work needed to develop a fully analyzed list of alternatives ready for Council adoption could be completed without additional Council guidance. Dr. Dahl suggested that the Council could decide at a future meeting whether the advisory bodies' work was sufficient for Council action or whether more guidance would be needed.

Dr. McIsaac spoke to Agenda Item D.3.a, Attachment 5, which is a schedule. HMS advisory bodies are scheduled to meet at the June Council meeting and tentatively scheduled to meet at the September Council meeting as well. Dr. Dahl said alternatively they could hold an outside meeting to focus just on this issue.

Ms. Culver said she felt the first step for the HMSMT is to create a table that identifies the management unit species:

- subject to international management
- actively managed by an RFMO

- have a harvest guideline or quota adopted by an RFMO.

For the monitored species, the table would indicate if those species are managed under another FMP or state management plan, is a target species, or is a candidate ecosystem component species. That step addresses issues raised in the SSC and HMSMT reports.

Ms. Culver was unsure that the HMSMT could develop a range of alternatives for adoption in November. She suggested that a preliminary evaluation of candidate species be brought forward at that meeting with the intention of the Council taking final action in April.

Dr. Dahl said that sounds like a good process. He added that there may be relatively few species where there is a question as to whether they meet the international exception and a range of alternatives could focus on those species. In November a preliminary assessment of the species could be presented, including the current status of knowledge about those stocks, such as whether they have been assessed or not. He noted that even for those species meeting the international exception, maximum sustainable yield (MSY) and SDCs need to be specified, and how this would be done would depend on the level of assessment.

Mr. Steve Williams said he liked the approach proposed by Ms. Culver but was concerned that it might require the development of draft amendment language before the Council had evaluated the information included in the table outlined by Ms. Culver. The process should allow an opportunity to narrow down the work needed.

Mr. Helvey felt it important for the Council to coordinate with WPFMC on species found in both FMPs. This could be another item indicated in the table proposed by Ms. Culver.

Mr. Wolford recommended another column for the proposed table: the percentage of total catch represented by U.S. fisheries. This would indicate the level of influence the U.S. has in managing stockwide catches. He also thought that the decision on what species are considered internationally managed is a policy call to be made by the Council rather than a conclusion in the proposed table.

Ms. Vojkovich recommended, additionally, in the proposed table a specification of the proportion of total catch accounted for by U.S. west coast fisheries.

Ms. Culver agreed with the additions to the proposed table. To clarify, she was not proposing that the HMSMT conclude which species are subject to the international exception, rather they would provide information on the question of which are subject to international management. She also noted that it would be helpful for the HMSMT and HMSAS not to meet concurrent with a regular Council meeting. The Council would then have sufficient time to review their reports prior to the Council meeting.

Dr. McIsaac referred to Attachment 5 to propose a revised schedule: at the November 2009 meeting the Council would receive a preliminary analysis, at the April 2010 meeting they would adopt a range of alternatives and draft amendment language and then take final action at the June 2010 meeting. There was Council concurrence on this three-meeting process.

Mr. Moore said he agrees with Dr. McIsaac's proposed schedule revision; however, he wanted to make sure that it was synchronized with the processes proposed for the Council's other FMPs for this matter, especially with respect to SSC involvement.

Dr. Dahl asked for affirmation from the Council that the HMSAS should participate with the HMSMT on this process. The Council concurred.

D.4 International Regional Fishery Management Organization (RFMO) Matters

D.4.a Agenda Item Overview (04/05/09; 11:12 a.m.)

Dr. Dahl provided the agenda item overview.

D.4.b Report on the Fifth Regular Session of the Western and Central Pacific Fisheries Commission

Dr. McIsaac summarized Agenda Item D.4.b, Attachment 1. He also reviewed the Kobe plots graphics, see Agenda Item D.4.b, Supplemental PowerPoint presentation.

D.4.c Status of Memorandum of Understanding on Council Participation in RFMO Delegations and Advisory Bodies

Dr. McIsaac summarized Agenda Item D.4.c, Supplemental Attachment 1.

D.4.d Reports and Comments of Management Entities and Advisory Bodies

Mr. Ernesto Altamirano, IATTC staff, was introduced and it was noted he was available for questions. Dr. Stohs provided Agenda Item D.4.d, Supplemental HMSMT Report. Mr. Fricke provided Agenda Item D.4.d, Supplemental HMSAS Report.

D.4.e Public Comment (04/05/09; 1:19 p.m.)

Peter Flournoy, International Law Offices, San Diego, CA

Mr. Chip Bissell, American Albacore Fishing Association, Bonita, CA

Mr. Steve Fosmark, F/V Seeadler, Pebble Beach, CA

D.4.f Council Action: Determine Council Action with regard to the MOU and Recommendations to the Inter-American Tropical Tuna Commission

Mr. Moore said concerns he had with the proposed revisions to the memo of understanding (MOU) (Agenda Item D.4.c Supplemental Attachment 1) by WPFMC have been resolved and he was comfortable with its content. He then moved and Mr. Warrens seconded a motion (Motion 4) to have the Council move forward with the MOU and include the proposed changes by the WPFMC.

Ms. Vojkovich asked for clarification on whether ex-officio participation on the WCPFC Advisory Committee will be at the staff officer level. Mr. Moore said that was his understanding based on information provided by Dr. Dahl and Dr. McIsaac.

Motion 4 passed unanimously.

Ms. Vojkovich moved (Motion 5) and Mr. Helvey seconded a motion, relative to the upcoming IATTC meeting in June, to send a letter to the U.S. delegation to the IATTC that incorporates comments previously sent by the PFMC in 2008 that restate the concerns the PFMC has about lack of conservation measures for yellowfin and bigeye tunas; ask the U.S. delegation to use a total allowable catch (TAC) instead of time and area closures in formulation of management measures; ask that the Eastern Pacific Ocean stock assessment for striped marlin be updated and coordination with the ISC be encouraged;

recommend better reporting for compliance with albacore resolution be supported by the IATTC; and recommend that the U.S. delegation support better data collection for all IATTC species.

Mr. Moore asked whether Mr. Bissell's proposal to encourage identification of biological reference points for albacore tuna was included in the motion. Ms. Vojkovich said lacking more information on what would be involved, she chose to include the last item on better data collection, intending to generally cover the issue raised by Mr. Bissell.

Motion 5 passed unanimously.

E. Marine Protected Areas

E.1 Update on Olympic Coast National Marine Sanctuary (OCNMS) Management Plan Review Process

E.1.a Agenda Item Overview (04/05/09; 1:44 p.m.)

Mr. Mike Burner provided the agenda item overview.

E.1.b OCNMS Report

Mr. Liam Antrim, OCNMS, updated the Council on the OCNMS Management Plan review process.

Ms. Culver thanked Mr. Antrim for the report and the work the OCNMS has done with the Sanctuary Advisory Council (AC) as well as the Intergovernmental Policy Council (IPC). She spoke to the scoping comments the OCNMS received regarding fishery regulation and asked if any of the priority issues on page 3 of Agenda Item E.1.b, Attachment 6 would have an overlap with fisheries management. Mr. Antrim noted that habitat mapping and prioritizing are a high priority for the OCNMS and he felt there was an important coordination aspect of this work, considering the potential benefit this work could have in fisheries management. Mr. Antrim further clarified that fishing gear effects on living sanctuary resources could also be a priority conservation issue.

Ms. Culver noted the process calendar between April and the fall involved finalization of priorities and the development of work groups and plans and she asked if the OCNMS had any specific recommendations on how the Council and its Advisory Bodies could best provide input in the process and how the OCNMS envisions involving the Council during this time frame. Mr. Antrim said the OCNMS is interested in maintaining this collaborative process and referenced the late-May process of identifying people for work groups to address the final list of priority issues. He was unsure how this would mesh with the Council's schedule, but the OCNMS would be looking to its AC, the IPC, and this Council when developing appropriate representation.

Dr. McIsaac noted the OCNMS priorities regarding research in support of stock assessment work and asked if it was the intent of the Sanctuary to complete stock assessment independently from the Council process. Mr. Antrim noted that the AC specifically stated that being directly involved with stock assessment work or in conducting stock assessments was not something they were interested in. Rather, the Sanctuary is looking to develop research in support of the existing stock assessment efforts. Dr. McIsaac noted the importance of yelloweye rockfish to the Council and the current lack of data available to inform new assessments and asked if the OCNMS envisioned research of adequate magnitude to improve our assessment of this species. Mr. Antrim felt that the work groups convened during this process will be developing broader policy type recommendations on monitoring programs rather than

specific research or survey designs. The resulting elements of the revised Management Plan could include an identified need for a specific research project, but over the summer of 2009 it is unlikely that the details of such research would be available. That process would occur after the Management Plan Review.

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

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

Ms. Culver recalled that during the Monterey Bay National Marine Sanctuary (MBNMS) Management Plan Review SSC representatives were assigned to work groups and she asked why in this case the SSC is not recommending such representation. Dr. Ralston said that his recollection is different and that there is no formal SSC representation on the MBNMS work groups at this time. This is due to concerns that an SSC representative in such a capacity could be construed to be representing the Council, which is something the SSC would like to avoid. Ms. Culver agreed that formally representing the Council would not be appropriate, but she would like to hear how the SSC and the OCNMS may be able to collaborate. Dr. Ralston said that the SSC could provide a review of monitoring programs and sampling designs to ensure, among other things, that the resulting data could be used in stock assessments. The SSC would be willing to consult and coordinate with OCNMS staff in this regard.

Mr. Lockhart asked if it would be possible for the OCNMS to develop a research program of sufficient scope to inform future assessments of yelloweye rockfish. Dr. Ralston felt that because there is very little data currently available and that the OCNMS is in the heart of yelloweye rockfish distribution, even limited research projects could yield benefits to assessments.

Mr. Burner read Agenda Item E.1.c, Supplemental HC Report.

Mr. Lockhart expressed his appreciation for collaboration the OCNMS has had with the Northwest Region and that he looks forward to working with the Sanctuary in the Management Plan Review.

E.1.d Public Comment

Mr. Ben Enticknap, Oceana, Portland, OR
Mr. Doug Fricke, Commercial Fisherman, Hoquiam, WA

E.1.e Council Discussion of OCNMS Management Plan Review Process

Ms. Michelle Culver was interested in opportunities the Council might have to provide the Sanctuary with input on their management needs and how those may overlap with Council needs, particularly in the identification of data gaps. Mr. Burner noted that the Council sent all West Coast Sanctuaries a copy of the recent Research and Data Needs document and that further coordination could occur with a presentation on preliminary results of the OCNMS issue prioritization and work group development process during either the September or November Council meeting.

Ms. Kathy Fosmark concurred with recommendations for SSC review of Sanctuary work group products and asked if there has been any coordination on enforcement issues. Mr. Lockhart replied that the NMFS enforcement groups work on all Council related issues including Sanctuary enforcement issues.

Ms. Culver asked Mr. Burner to investigate the best timing for the SSC to revisit this Management Plan Review process. Mr. Burner replied that due to a heavy groundfish assessment workload in September, the November Council meeting may be the best fit.

F. Groundfish Management

F.1 National Marine Fisheries Service Report (04/05/09; 2:55 p.m.)

F.1.a Regulatory Activities

Mr. Lockhart spoke about the open access decision made at the March Council meeting. After reviewing the decision and talking with his staff about that decision, this program doesn't provide as many benefits as compared to the costs to both the government and the industry. He believes perhaps with more time we could improve upon that decision and come up with something that works better for all involved. He intends on Thursday when we talk about the June Council meeting agenda and workload, he will ask for an hour on the June agenda, with the intent to make a motion to rescind; to undo the decision made in March and go forward from there. He realizes this is an unusual step. He thinks the decision made doesn't provide us with very much at all. He just wanted to put people on notice that he will be asking for time on the June agenda during Agenda Item G.5 this Thursday.

F.1.b Fisheries Science Center Activities

Dr. Elizabeth Clarke provided an update. She noted the first Stock Assessment Review (STAR) panel is gearing up and Dr. Jean-Jacques "JJ" Maguire, Canada Department of Oceans and Fisheries, will participate on a panel to discuss the overfished species of concern status.

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

None.

F.1.d Public Comment

Mr. Dave Bitts, PCFFA, Eureka, CA

Mr. Dave Collins, San Francisco Crab Boat Owners Association, San Francisco, CA

F.1.e Council Discussion

Ms. Culver had concerns about rescinding the open access motion passed in March. She would rather discuss alternatives that were not considered previously; perhaps staff do a white paper on the topic. The discussion would show how the new proposals would better meet the goals of the Council. Then the Council could decide if they would want to rescind the previous action.

Mr. Lockhart responded that it was an interesting proposal; they will certainly consider that, and the steps and order are different from what he is proposing and he would like to talk to his staff and review other considerations. This is primarily a conservation concern; the capping of effort is a primary concern here. In NMFS opinion, this does not cap effort and address the primary concern of NMFS.

Mr. Moore, to clarify, asked Mr. Lockhart, if his point was that the Council action failed the cost-benefit analysis. (Mr. Lockhart nodded his head in response).

F.2 Consideration of Inseason Adjustments

F.2.a Agenda Item Overview (04/06/09; 3:18 p.m.)

Mr. Merrick Burden provided the agenda item overview.

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

Mr. Robert Jones provided Agenda Item F.2.b, Supplemental GMT Report. Mr. Gerry Richter and Mr. Daniel Platt provided Agenda Item F.2.b, Supplemental GAP Report.

F.2.c Public Comment

Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, CA
Mr. Larry Collins, San Francisco Crab Boat Owners Association, San Francisco, CA
Mr. Bill Blue, Morro Bay Commercial Fishermen's Association, Morro Bay, CA
Mr. Duncan MacLean, Half Moon Bay Fishermen's Marketing Association, El Granada, CA

F.2.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2009 Groundfish Fisheries

Mr. Moore asked Mr. Richter to come to the podium; he asked for clarification about the Groundfish Advisory Subpanel (GAP) statement. Mr. Richter said the GAP statement meant to state that the request was to increase the fixed gear sablefish limits north of 36 degrees all the way to the US/Canada border.

Ms. Vojkovich asked the Groundfish Management Team (GMT) to come to the podium. It was her understanding that some of the issues in the GMT statement refer back to the Council's adoption of harvest specifications in June 2008 (*Motion 50 from June 2008 Minutes*). When the Council chose the management option for the open access nearshore fishery, the option of a lower optimum yield (OY) was modeled and the Council didn't look at maximizing the black rockfish take. She indicated that achieving the black rockfish take to the extent possible was the intent. Therefore, the March 2009 scorecard did not reflect the overfished species catch associated with that maximization for black rockfish. She asked if the April updated scorecard has maximized black rockfish in Oregon, but not in California? Mr. Jones said yes. Ms. Vojkovich asked the GMT to look at the scorecard labeled through April 2009. She asked if the GMT could update that with an estimate of what the California impacts would be if we maximize black rockfish for both Oregon and California.

Ms Vojkovich referred to the fixed gear nearshore impacts for canary of 3.3 mt and for yelloweye of 1.2 mt. Ms. Vojkovich asked for clarification on the canary number, specifically is the total canary impact 99.8 mt? Yes, said Mr. Jones, and 15.9 mt for yelloweye.

Ms. Vojkovich said none of the proposed changes to the sablefish trip limits affect any of the numbers for overfished species on the scorecard? Yes, said Mr. Jones, that is correct.

Mr. Williams moved (Motion 13) and Mr. Warrens seconded a motion, to adopt the inseason adjustments for *Limited Entry Sablefish N of 36°* as follows: change trip limits to 500 lbs/day, 1,500 lbs/week, and 5,500 pounds per 2 months beginning May 1 as shown in Agenda Item F.2.b Supplemental GMT Report for daily-trip-limit (DTL) sablefish (including the changes as discussed for the scorecard: *Fixed Gear Nearshore category*, canary 3.3 mt; yelloweye 1.2 mt which is 99.8 mt total for canary and 15.9 mt for yelloweye).

Ms. Vojkovich said she was interested in having the Council follow its policy of not increasing fishing opportunities prior to June as often as possible. She indicated the changes being proposed as part of the motion are not necessarily different from the Council's policy because these adjustments are essentially a correction to details missed during the harvest specifications process. Sometimes items slip through the

cracks. She is supportive of making the changes and supportive of the motion. She indicated that she would continue to resist further inseason considerations prior to June in cases where people want to change something every month.

Ms. Culver agreed with Ms. Vojkovich's comments about policy.

Motion 13 passed unanimously.

The Council confirmed the final inseason adjustments agenda item scheduled for Thursday will be cancelled. Mr. Moore then asked for a revised scorecard to be handed out only, with no discussion.

F.3 FMP Amendment 21 - Intersector Allocation

F.3.a Agenda Item Overview (04/07/09; 8:23 a.m.)

Mr. John DeVore provided the agenda item overview that included a PowerPoint presentation, see http://www.pccouncil.org/bb/2009/0409/F3a_SUP_ATT2_0409.pdf.

Mr. DeVore explained Amendment 21 formal allocations are needed to implement trawl rationalization since the initial allocation of quota shares (QS) requires a sector allocation. Further, many of the decisions by QS holders in the rationalized fishery, such as buying, selling, or leasing QS, would be benefitted by longer term business planning than can be afforded by the short-term sector allocations typically decided in the biennial specifications and management measures process. Decision points for this action include: 1) trawl and non-trawl sector allocations for Amendment 21 species; 2) at-sea whiting sector set-asides; 3) shoreside trawl sector allocations; 4) a Pacific halibut trawl total catch limit; and 5) the possible frameworking of Amendment 21 allocations in the FMP.

The trawl and non-trawl allocations for Amendment 21 species recommended by the Groundfish Allocation Committee (GAC) were applied to 2010 optimum yields (OYs) after deducting yields to accommodate catches in tribal fisheries, non-groundfish fisheries, and research fisheries to illustrate amounts theoretically available to trawl and non-trawl sectors. These allocated amounts were compared to trawl and non-trawl sector catches during 1995-2005 in the presented graphics as a way to understand sector dependence on each of the Amendment 21 species and how recommended allocations might meet the needs of these groundfish sectors. The allocated amounts determined by applying a new alternative allocation (Intersector Allocation Alternative 4) that increases the non-trawl sector allocation for select species by 10 percent relative to Intersector Allocation Alternative 1 were similarly displayed on these graphics.

Mr. DeVore explained the allocation alternatives for each of the Amendment 21 species and implications for trawl and non-trawl sectors. He pointed out a mistake in the preliminary Draft Environmental Impact Statement (DEIS) with respect to trawl and non-trawl catches of shortspine thornyhead south of 34°27' N. latitude. Catches of shortspine south of 36° N. latitude were inadvertently assigned to south of 34°27' N. latitude. The problem was rectified by reassigning annual catches landed in Santa Barbara and ports south, to south of 34°27' N. latitude and landings in ports north of Santa Barbara to north of 34°27' N. latitude. The revised catch history revealed a much lower trawl catch of shortspine south of 34°27' N. latitude, with the largest annual trawl landings during the 1995-2005 period being 27 mt. While the GAC-recommended trawl allocation does not make sense since it was based on faulty data, there still needs to be a trawl allocation since this is a stock that will be managed with individual fishing quotas (IFQs). He noted that the GAP was recommending an allocated amount to trawl sectors that appeared to meet the need for both trawl and non-trawl sectors.

Longspine thornyhead south of 34⁰27' N. latitude was not included in the list of species to be managed under IFQs under Amendment 20; therefore, the GAP was not recommending a trawl allocation. Mr. DeVore added an allocation for this stock is unnecessary because it is not targeted by any sectors and the OY is much larger than the incidental bycatch of this stock.

Mr. Anderson asked about the differences between the GAC-recommended alternative and Intersector Allocation Alternative 4. He noted that there are significantly higher non-trawl allocations for lingcod and sablefish under Alternative 4 than under the GAC-recommended alternative. However, the other species allocations contemplated under Alternative 4 were either a similar or a less favorable non-trawl allocation relative to the GAC alternative. Mr. DeVore said that was a fair characterization. He commented that the GAC clearly took into account the needs of non-trawl sectors when deciding which trawl allocations to recommend.

Mr. DeVore then reviewed the data and analyses informing within-trawl allocations of darkblotched, Pacific Ocean perch (POP), and widow rockfish. Within-trawl sector allocations are needed for these three species since the combined shoreside whiting and non-whiting sector will manage their take of these species with IFQs and the at-sea whiting sectors will manage their bycatch of these species with total catch limits. A canary rockfish allocation will also be needed to implement trawl rationalization for the same reasons cited above, but the Council has previously decided to allocate canary rockfish every two years in the biennial specifications process. Mr. DeVore explained that he originally approached the allocation decision for darkblotched, POP, and widow by apportioning the at-sea sector allocations first and then deciding how to apportion the shoreside sectors' allocations. However, the GAP preferred deciding the whiting sectors' vs. the shoreside non-whiting sector allocations as a first step and then apportioning the whiting sectors' allocation between the three sectors (shoreside whiting, catcher-processors, and motherships). In that spirit, he produced graphs showing the annual catches of these species for the three sectors in aggregate.

The widow rockfish graphic displayed the aggregate whiting sectors' catch during 1995-2005 compared to the 2003-05 average catch percentage of widow by whiting sectors applied to the 2010 widow optimum yield (OY). The information was structured this way since the 2010 widow OY is still a rebuilding OY and the whiting sectors' catch percentage is much higher under rebuilding. When the stock was at healthy biomass levels, the shoreside non-whiting sector caught most of the widow since there was a target widow/yellowtail midwater trawl fishery. Mr. Moore asked if the individual sector catches were available. Mr. DeVore said that information was available but he didn't have it handy at the moment. He explained the general pattern of widow bycatch by at-sea sectors were that the maximum catches for each sector were not coincident, there was a lot of interannual variability in the bycatch, and bycatch was highest overall early in the time series. It was noted that this was the beginning of the whiting fishery and, especially in the shoreside whiting sector, there was a significant amount of mixed stock targeting then.

Similar graphics were displayed for darkblotched and POP. The point was made that, unlike widow rockfish, there was little difference in trawl sector catch shares when these stocks were healthy compared to when they were under rebuilding. Again there was a higher bycatch of these species by whiting sectors early in the time period as whiting fishermen were learning how to effectively target whiting. The mixed stock targeting phenomenon seen with widow in the first years of the whiting fishery affected that higher bycatch as well. Mr. Moore asked about the whiting sectors' catch percentage of darkblotched applied to the 2010 OY, which appeared to be a little over 9 mt. He noted that the whiting fishery in recent years has been managing with a 25 mt darkblotched total catch limit and the fleets have come close to that catch amount. Mr. DeVore agreed and stated that that reality led the GAP to recommend a higher darkblotched allocation for the whiting fleets than the catch shares during this time period. The GAP recommendation

for POP also took into account the bycatch in whiting fisheries in the last three years, since POP bycatch was slightly higher in recent years.

Mr. DeVore then explained the yield set-asides analyzed under Amendment 21. Yield set-asides are different from formal allocations in that these are not limits that will affect the operation of affected fisheries. Set-asides are simply an amount of yield not allocated to any sector and are the best projections of anticipated incidental bycatch. Formal allocations to the at-sea whiting sectors are only needed for those bycatch species that are managed actively with total catch limits (i.e., darkblotched, canary, POP, and widow). The bycatch of all other species needs to be accounted for with yield set-asides to ensure OYs are not exceeded. He explained the 10 mt Pacific halibut set-aside recommended by Council staff is intended to account for the bycatch in the at-sea whiting fishery as well as the bottom trawl fishery south of 40°10' N. latitude. This 10 mt set-aside is part of the total catch trawl limit of Pacific halibut that will need to be decided today.

Mr. DeVore then explained the need for deciding an initial allocation to the shoreside whiting and non-whiting sectors. The two sectors will be combined under Amendment 20 trawl rationalization and managed using IFQs. However, in order to correctly allocate QS to eligible participants in both sectors, an initial allocation needs to be made to both shoreside trawl sectors before they are combined since QS allocation depends on participants' catch history within these respective sectors. He noted that Table 2-11 on page 26 of the preliminary DEIS (Agenda Item F.3.a, Attachment 1) indicates the shoreside sector catch percentages during 1995-2005 and during 2003-2005. There is very little difference in shoreside trawl sector catch shares during these two time periods for the Amendment 21 species, except for widow and yellowtail rockfish. A greater share of these two species were caught in the shoreside whiting fishery in recent years since, under widow rebuilding, there has been no target widow/yellowtail fishery in the shoreside non-whiting fishery. Mr. DeVore recommended the Council adopt two shoreside trawl allocation alternatives for widow rockfish, one assuming widow is still under rebuilding when trawl rationalization is implemented and one assuming the stock is rebuilt. Only one allocation scheme should be implemented depending on the state of nature of widow rockfish. All of these shoreside trawl allocation alternatives are attempting to more closely match the need of sector participants under trawl rationalization. Eventually, through IFQ trading, portfolios will be balanced and needs will be met. A closer match of these needs when trawl rationalization is implemented will cause less disruption of the fishery. This dynamic is less of a concern for allocating yellowtail rockfish to the shoreside sectors. Mr. DeVore recommended heeding the GAP recommendation or something close to the GAP recommendation when deciding the yellowtail allocation.

Mr. DeVore then explained the Pacific halibut total catch limit alternatives for the trawl fishery under rationalization. The intent of this action is to limit the bycatch mortality of Pacific halibut in future trawl fisheries to provide more halibut for the directed fisheries. Pacific halibut is and will continue to be a prohibited species in trawl fisheries throughout the species range. He explained the basis for each alternative and clarified the Council's intent is to further reduce trawl bycatch mortality through time as fishery performance in avoiding Pacific halibut is evaluated. The International Pacific Halibut Commission is recommending the Council's preliminary preferred alternative 4. Ms. Vojkovich asked how the 10 mt yield set-aside discussed earlier related to these alternatives and Mr. DeVore said the 10 mt would come off the top of any limit decided.

Mr. DeVore then explained the considerations for frameworking allocations in the FMP. The idea is to consider FMP language that allows a change in a formal allocation through a regulatory amendment if information comes forward that compels a change in the allocation. An allocation framework requires analysis of the types of anticipated information that would compel a change be done before the frameworking language is adopted. Frameworking an allocation does not change the public process for amending an allocation in the Council arena, but does potentially reduce the administrative burden

required to amend the FMP. Any regulatory amendment of an allocation can be done coincident with the biennial specifications process. Staff is also recommending that the Council maintain the existing FMP language that automatically suspends a formal allocation of a stock if it is declared overfished. Allocation would then be considered in development of a rebuilding plan that analyzes the tradeoff between socioeconomic impacts associated with reducing fishing mortality and the projected rebuilding period.

Mr. Lockhart asked about short-term allocations contemplated in the biennial specifications process and whether it was envisioned that such allocations would be made for overfished species exclusively or whether other groundfish species would be involved. Mr. DeVore answered that the Council has up to this point decided to consider formal allocations for the three trawl-dominant overfished species (i.e., darkblotched, POP, and widow), but has not included the other four overfished species (i.e., bocaccio, canary, cowcod, and yelloweye) under Amendment 21. This is because these four species are caught extensively in both trawl and non-trawl gears and any incidental bycatch of these species allowed in the biennial specifications process depends on the most up-to-date information to manage both socioeconomic and conservation objectives. Additionally, any species that will be managed with IFQs but are not included in this Amendment 21 action will need to be allocated to the trawl sector through the biennial specifications process prior to implementation of trawl rationalization. There is a tradeoff in deciding a formal allocation that endures longer than two years. Such allocations create a more stable management outlook, which facilitates longer range business planning by fishermen.

Ms. Cooney clarified that the formal allocations for Pacific whiting and sablefish are frameworked in the formal allocation process in the FMP. The FMP explains the types of information and considerations that would compel an allocation change through a regulatory amendment. Amendment 21 species' allocations can be similarly frameworked. Ms. Vojkovich asked about the difference between a frameworked formal allocation that can be changed in the biennial specifications process and a short-term allocation decided in the biennial specifications process. Ms. Cooney explained that a formal allocation stands unless the types of anticipated changes in the fishery or stock envisioned in the frameworking analysis occur. Formal allocations do require more analysis than is conventionally done for short-term allocations decided in the biennial specifications process; therefore, formal allocations are not revisited every biennial management cycle. Most of the short-term allocations decided biennially in the specifications process are borne from decisions regarding the optimal mix of fishing opportunities for healthy, target species given the conservation objectives that need to be considered. For instance, management constraints imposed by the need to reduce mortality on overfished species limits access to healthy target stocks. Therefore, the biennial decision often involves how to get the most access to healthy stocks with the least fishing mortality on overfished stocks. These decisions have inherent allocation outcomes. Ms. Cooney added that the management effect associated with a stock being declared overfished is the reason for the allocation suspension provision in the FMP.

Mr. DeVore explained he was finished with his presentation and Chairman Hansen asked him to field questions regarding the GAC report and recommendations. Ms. Vojkovich asked about the GAC recommendation to dismiss intersector allocation alternatives concerning Pacific halibut bycatch limits since this was decided in November 2008 under the trawl rationalization decision. Mr. DeVore explained that this was the recommendation in January when the GAC met to discuss intersector allocation. However, in March the Council adopted another alternative Pacific halibut bycatch limit for the trawl fishery and characterized it as the preliminary preferred alternative. Given that change, it was clear that there was a change in thinking regarding how to limit trawl bycatch mortality of Pacific halibut that was different from what the GAC recommended in January. Ms. Vojkovich asked if there were any other GAC recommendations that no longer stand and Mr. DeVore said no. He highlighted the GAC recommendation to remove spiny dogfish from the list of Amendment 21 species considered for formal allocations. He remarked that, with no quantitative basis to set a harvest limit for spiny dogfish and no assessment to decide an appropriate management strategy, this was a sensible recommendation. All the

GAC recommendations, other than the Pacific halibut recommendation, were incorporated in the preliminary DEIS analysis and in the presentation just provided.

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

NMFS Report

Mr. Frank Lockhart provided Agenda Item F.3.b, Supplemental NMFS Report.

Mr. Moore said the Council has traditionally used area restrictions to avoid EFH impacts. Using allocation as a tool to avoid EFH impacts makes less sense given the allowance of gear switching under trawl rationalization. He asked if a higher non-trawl allocation would remove the incentive for trawlers to switch gears and Mr. Lockhart said that was potentially true, but more analysis is needed to explore these interactions.

GMT Report

Mr. Rob Jones provided Agenda Item F.3.b, Supplemental GMT Report. Mr. Jones presented a PowerPoint showing the decision steps in deciding allocations under Amendment 21 and the biennial management process.

Mr. Moore asked about the recommendation to consider management uncertainty under the new National Standard 1 (NS1) guidelines, have these considerations been factored in the intersector allocation recommendation? Mr. Jones said no.

Mr. Lockhart asked if the GMT contemplated whether an allocation amount for select species to non-trawl sectors would work indefinitely and Mr. Jones said no, but it appears the non-trawl sectors cannot currently harvest the recommended allocation percentages as applied to 2010 OYs for those species.

Mr. Lockhart asked for clarification on the GMT recommendation to consider two allocation schemes for widow rockfish and not for other species. He asked if this was because of the expectation that widow may be rebuilt when trawl rationalization is implemented and Mr. Jones said yes, the current assessment projects that outcome.

Ms. Vojkovich asked about the far right column in Table 1 of the GMT report that is labeled, "Observer Prog 2007." She asked if these data were sector catch shares calculated from 2007 landings and observed discard mortality and Mr. Jones said that was correct. She asked about the cells labeled "No Split" in that column and asked if the catch shares for those species were not calculated by their respective OY areas and Mr. Jones said that was correct.

Dr. McIsaac asked if management uncertainty would be better addressed under FMP Amendment 23 or should this be considered here. Mr. Jones said the Amendment 23 analysis may be sufficient and it does not need to be addressed under Amendment 21.

GAP Report

Mr. Tom Ancona provided Agenda Item F.3.b, Supplemental GAP Report.

Mr. Cedergreen asked what the 67 percent trawl allocation recommended by some GAP members would amount to when applied to the 2010 OY. Mr. DeVore said he would calculate the amount and report back.

Ms. Vojkovich asked why the GAP was recommending a percentage allocation formula for apportioning species like darkblotched to trawl and non-trawl sectors and then an allocated amount to the whiting trawl sectors. How does that work when OYs can change annually? Mr. Ancona said the GAP looked at the darkblotched bycatch rates in the whiting fisheries and determined an allocated amount would cover the whiting fishery's bycatch needs. This is inherently different than a species like widow in the whiting fishery since the whiting fleet can more easily avoid darkblotched than widow when targeting whiting.

Mr. Williams asked how long the trawl industry requested to evaluate fleet performance at avoiding Pacific halibut. Mr. Ancona said there is a concern, but a timeframe to ramping down the bycatch was not discussed except they believe a longer time to evaluate may be needed.

Mr. Moore asked about Mr. Ancona's answer to Ms. Vojkovich regarding the need for flexibility to increase the widow allocation to the whiting fishery if it is needed, but the GAP recommendation was for an allocation amount to whiting sectors. Mr. Ancona thought the widow allocation of 400 mt to whiting sectors was large enough to accommodate future bycatch needs of whiting sectors, but the non-whiting trawl fishery would like more access to widow if it is not needed to accommodate bycatch in the whiting fishery. Mr. Tom Libby said he agreed with the need for flexibility in the within-trawl allocation of widow since there were distinct differences in the amount of widow taken in the shoreside non-whiting vs. the whiting fisheries when the stock was healthy than when the stock was under rebuilding. Mr. Moore said there were two different ways to allocate widow, but is it correct that the GAP is recommending one allocated amount of 400 mt to the whiting fishery regardless of whether widow is rebuilt or not when trawl rationalization is implemented and Mr. Libby said that was correct.

Mr. Myer asked why the darkblotched recommendation from the GAP would require an FMP amendment that would take five years to adjust if it is primarily needed by the at-sea sectors. Mr. Ancona said he is troubled by the notion that it would take five years to amend the FMP to change a formal allocation. Mr. Libby added that the trouble is that at-sea and shoreside sectors cannot trade QS of bycatch species (e.g., darkblotched, POP, widow, and canary).

Mr. Lockhart thought the allocated amount of some species to non-trawl sectors was close to the maximum amount taken by those sectors. Mr. Ancona said, for most of the species where an amount is recommended for non-trawl sectors, there is available yield left to expand those fisheries. The one exception is petrale sole, which is close to the maximum non-trawl sector catch. This is a workhorse stock for the trawl industry and is so important that a higher trawl allocation is warranted.

F.3.c Public Comment

Ms. Laura Pagano, Natural Resources Defense Council, San Francisco, CA

Mr. Jason Salvano, Open Access fisherman, San Francisco, CA

Mr. Larry Collins, San Francisco, Crab Boat Owners Association, San Francisco, CA

Mr. Sam Shabeck, Food & Water Watch, San Francisco, CA

Mr. Ben Bowman, Food & Water Watch, San Francisco, CA

Mr. Zeke Grader, Pacific Coast Federation of Fishermen's Associations, San Francisco, CA

Mr. Josh Churchman, Limited Entry Fixed Gear fisherman, Bolinas, CA

Mr. Jeremy Durks, Open Access fisherman, Bolinas, CA

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

F.3.d Council Action: Adopt Final Preferred Alternative

Mr. Anderson provided his thoughts regarding the recommendation from some to delay this allocation decision. He is concerned that delaying this action could delay implementation of trawl rationalization. The sooner we rationalize the trawl fishery, the better our environment will be. Full accountability, gear switching, and fleet reduction are the environmental benefits he anticipates under trawl rationalization. Analysis of habitat effects can be made after the first few years of trawl rationalization and the five-year review of trawl rationalization can also evaluate Amendment 21 allocations.

Mr. Anderson referred to Agenda Item F.3.d, Supplemental WDFW Motions in Writing. He moved and Mr. Myer seconded a motion (Motion 14) for the Council to adopt the Motion 1 allocations in the WDFW motion document (Agenda Item F.3.d, Supplemental WDFW Motions in Writing), including status quo allocations for Pacific whiting and sablefish. The specific motion language is as follows:

“Intersector Allocation between trawl and non-trawl: Adopt the GAC Alternative, which includes:

- Status quo allocation for Pacific whiting.
- Allocations for all other species, except those for which IFQ would not be assigned through the trawl rationalization program as well as those species for which allocations would be decided through the biennial specifications process (actual species included listed in Table 2-10 on p. 23 of Preliminary Draft EIS). Note: longspine thornyhead south of 34°27' N. latitude would not be included.
- Using 2003-2005 sector total catch percentages as the basis for allocations.
- All trawl allocations greater than or equal to 95 percent would be set at 95 percent (actual percentages, by species, are in Table 2-9, on p. 21 of Preliminary Draft EIS).”

Mr. Anderson explained using the 2003-2005 catch percentages for allocations provides a more contemporary view of sector needs. This time frame also includes total catches for all sectors and is more of an equitable allocation.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion to amend the main motion (Amendment 1 to Motion 14) to include a 75 percent trawl and 25 percent non-trawl allocation of chilipepper rockfish south of 40°10' N. latitude, a 50 percent trawl and 50 percent non-trawl allocation of starry flounder, and a 90 percent trawl and 10 percent non-trawl allocation of Other Flatfish.

Ms. Vojkovich explained the allocation of chilipepper is important to the non-trawl sectors in California. The 50:50 split of starry flounder appears equitable to all sectors. The Other Flatfish allocation allows for an increase in non-trawl opportunities. All these allocations more appropriately fit the needs of California fisheries than the GAC-recommended allocations.

Mr. Williams wanted Ms. Vojkovich to elaborate on the statement the 95:5 trawl and non-trawl split of Other Flatfish did not meet the needs of non-trawl sectors. He said that contention was not supported by Mr. DeVore's presentation. The Other Flatfish slide was again presented and Ms. Vojkovich admitted she may have miscalculated.

Mr. Moore asked about the chilipepper recommendation and noted the high non-trawl catches were during a time the Rockfish Conservation Areas (RCAs) were not in effect. Ms. Vojkovich said she is anticipating more access to the shelf and is looking at providing slight opportunities to increase non-trawl sectors without disadvantaging the trawl fishery.

Mr. Lockhart explained he would be abstaining from some of the motions.

Mr. Moore said the chilipepper allocation recommended by the GAC and GAP will accommodate all sectors well into the future. He is opposed to the amendment.

Mr. Wolford said he will support the amendment. There is a chilipepper EFP in process and we are actively trying to gain greater access to chilipepper.

Amendment 1 to Motion 14 carried (Mr. Moore voted no, Mr. Lockhart abstained).

Mr. Anderson said he looked carefully at the GAP recommendations. The recommended Dover sole allocation of 5 percent to non-trawl sectors makes more sense with a lower OY (it is at its highest now). English sole is also at a high OY but is decreasing in 2010 and projected to decrease further. The 5 percent non-trawl allocation seems to work given this expectation that these OYs will likely decrease over time.

Ms. Vojkovich asked if the motion included an allocation of shortspine thornyhead south of 34°27' N latitude and Mr. Anderson said no.

Ms. Vojkovich moved and Mr. Moore seconded a motion to amend the main motion (Amendment 2 to Motion 14) to allocate 50 mt of shortspine south of 34°27' N latitude to the trawl fleet as recommended by the GAP.

Amendment 2 to Motion 14 carried (Mr. Lockhart abstained).

Motion 14 carried as amended (Mr. Lockhart abstained).

Mr. Myer said he would recuse himself from Motion 3 since he has a conflict of interest.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 15) to adopt Motion 2 in Agenda Item F.3.d, Supplemental WDFW Motions in Writing, which is the Alternative 4 for Pacific halibut trawl total catch limits with one modification which provides that in the fifth year of trawl rationalization the limit decreases to 15 percent of the Area 2A catch equilibrium yield (CEY), not to exceed 100K lbs. The specific motion language, with the modification, is as follows:

Pacific halibut trawl bycatch limits: Alternative 4, with one change (underlined):

- An initial limit for total Pacific halibut bycatch mortality (legal-sized and sublegal fish) in the trawl fishery of 15%, not to exceed 130,000 lbs. per year for the first four years.
- Beginning with the fifth year of implementation, the maximum amount set aside for the trawl rationalization program would be reduced to a total mortality amount of 100,000 lbs. per year.
- The total halibut bycatch mortality amount may be adjusted downward through the biennial specifications process for future years.
- The at-sea trawl sector and shoreside trawl sector south of 40°10' N. latitude would have a bycatch set aside of 5 mt each (total bycatch set aside of 10 mt), which would come out of the 15% trawl sector allocation.

Motion 15 carried unanimously.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 16) to adopt Motion 3 in Agenda Item F.3.d, Supplemental WDFW Motions in Writing. The specific motion language is as follows:

“1. At-sea sector set asides: Adopt the GAC recommendation to set the at-sea sector set asides large enough to not constrain their fisheries given the interannual variation in sector catches by establishing a 5 mt minimum set-aside for any incidentally caught species in the at-sea fisheries with all set asides

rounded up to the nearest 5 mt (actual amounts specified in Table 4-23, p. 102 of Preliminary Draft EIS).

2. Within trawl bycatch allocations between whiting and non-whiting sectors would be set using 1995-2005 catch shares, except as follows:
 - Darkblotched rockfish – Allocate 9% or 25 mt, whichever is greater, of the total trawl allocation of darkblotched rockfish to the whiting fisheries (at-sea and shoreside combined). This amount accommodates the catches in both the 1995-2005 and 2003-2005 periods.
 - Pacific ocean perch (POP) – Allocate 17% or 30 mt, whichever is greater, of the total trawl allocation of Pacific ocean perch to the whiting fisheries (at-sea and shoreside combined). This amount accommodates the catches in both the 1995-2005 and 2003-2005 periods.
 - Widow rockfish – If widow rockfish is still under a rebuilding plan for the initial year of implementation of trawl rationalization, then 250 mt would be assigned for the initial allocation for the whiting fisheries (at-sea and shoreside), which is consistent with the amount set for 2009. If widow rockfish has been rebuilt by the initial year of implementation, then 10% or 500 mt, whichever is greater, would be assigned for the initial allocation for the whiting fisheries. This would accommodate the amount caught during the 1995-2005 period.
 - Yellowtail rockfish – Allocate 300 mt of yellowtail rockfish to shoreside whiting and 300 mt to at-sea whiting fisheries. This would split the difference between the average catches in the shoreside sector during the 1995-2005 time period and the average catches that occurred under a healthy widow rockfish period (1995-2000). The 300 mt set aside for the at-sea sector is consistent with the GAP recommendation.
3. Bycatch sharing among whiting sectors: Consistent with 2009 allocations and the trawl rationalization program, distribute darkblotched and widow rockfishes and Pacific ocean perch pro rata among whiting sectors.”

Mr. Anderson explained the proposed trawl sector allocations for darkblotched and POP are consistent with the allocated amounts recommended by the GAP, but there is also a need to add a percentage to go with a fixed amount as these stocks rebuild to cover bycatch concerns. He further explained the rationale for the widow rockfish allocation once the stock is rebuilt accommodates the amount caught in whiting fisheries during the 1995-2005 period. Similarly, for yellowtail rockfish, the average 1995-2005 catch in the shoreside whiting fishery was 242 mt, with a slightly higher amount taken during the first half of that period when widow was a healthy stock and the fishery was less constrained. Given that, a 300 mt yellowtail allocation to the sector seems to accommodate their needs.

Mr. Moore moved and Mr. Warrens seconded a motion to amend the motion (Amendment 1 to Motion 16) to allocate 275 mt of widow rockfish to whiting sectors rather than 250 mt if the stock is still under rebuilding. Mr. Moore expressed concern that 250 mt may be too constraining to the whiting fishery and a little more yield may be needed.

Mr. Anderson noted the widow catch in the whiting fishery presented in the GMT's March 2009 report on bycatch in the whiting fishery. All the widow catches since 2005 were under 250 mt even during years when the whiting OY was high. Ms. Vojkovich asked what happens if the next widow assessment is more pessimistic. She is concerned that 250 or 275 mt may be too high under that scenario. She thought a percentage allocation may be more reasonable.

Amendment 1 to Motion 16 failed on a roll call vote (Mr. Warrens, Mr. Williams, Mr. Moore, and Mr. Sones voted in favor of the amendment; Mr. Lockhart abstained; Mr. Myer recused).

Mr. Anderson, in addressing Ms. Vojkovich's concern to consider an allocation percentage rather than an amount of widow rockfish allocated to trawl sectors, referred to Table 2 in the WDFW motion document and explained a percentage of the total trawl allocation could be derived from that table. Mr. DeVore

explained that just over 90 percent of the total trawl take of widow went to the shoreside whiting sector during the period when widow was healthy and just over 8 percent went to the shoreside whiting sector when the stock was under rebuilding. He thought similar percentage allocations could be considered. Mr. Anderson recommended tabling the widow within-trawl allocation decision until more information could be provided and reviewed.

Mr. Moore moved and Ms. Vojkovich seconded a motion to amend the main motion (Amendment 2 to Motion 16) to remove the within-trawl allocation of widow from the motion.

Amendment 2 to Motion 16 carried (Mr. Myer recused, Mr. Lockhart abstained).

Motion 16 carried (Mr. Myer recused, Mr. Lockhart abstained).

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 17) to adopt Motion 4 in Agenda Item F.3.d, Supplemental WDFW Motions in Writing. The specific motion language is as follows:

“Framework for future allocations: Specify sector allocations to be decided through the biennial specifications and management process for only those species listed in Table 4-23 on p. 102, specifically:

Canary rockfish	black rockfish (WOC)	CA scorpionfish
Bocaccio rockfish	blue rockfish (CA)	cabezon (CA)
Cowcod rockfish	minor nearshore rockfish (N & S)	longnose skate
Yelloweye rockfish	minor shelf rockfish (N & S)	other fish

All other allocations would require a regulatory amendment process to revise.

Maintain the FMP provision to suspend formal allocations if a stock is declared as overfished.”

Ms. Vojkovich moved and Mr. Wolford seconded a motion to amend the motion (Amendment 1 to Motion 17) to include these species considerations as allocations or set-asides in the biennial management process.

Amendment 1 to Motion 17 carried unanimously.

Mr. Lockhart moved and Mr. Cedergreen seconded a motion to amend the main motion (Amendment 2 to Motion 17) for a five-year review of Amendment 21 allocations coincident with the Amendment 20 review. The motion language is as follows:

“... amend the main motion to incorporate a review of the intersector allocation, to coincide with the 5-year review of the TIQ program. The review will specifically consider adjusting the allocation to gear that has been determined to have fewer adverse environmental impacts. In support of this review, NMFS will develop an analysis consistent with the NMFS report under this agenda item (Agenda Item F.3.b, NMFS supplemental report) to inform this Council review. The analysis will be considered in the context of: creating positive benefits for EFH; helping to reduce bycatch of non-target and overfished species; and minimizing of impacts on protected resources. The analysis will also consider the overall economic impact on coastal communities of shifting allocation among gear types.”

Mr. Lockhart said that in the supplemental NMFS report and in public testimony there was discussion of the need to evaluate other issues than historical catches. This motion is intended to address those concerns without delaying the amendment. The trawl rationalization review provides an opportunity to look at all of the tools we have and how well they are achieving our objectives. NMFS will plan the

analysis of allocation effects soon and intends to have it completed well before the five-year review for consideration by the Council.

Ms. Vojkovich asked about the review of allocation among gear types and wondered if it should apply to sectors. Mr. Lockhart said the review could target sectors, but he wanted to currently focus on gear types and that sentence does not limit the analysis. Ms. Vojkovich said since we are not considering any other sectors but trawl and non-trawl, she did not see how we would allocate to a gear type when we have not considered formal allocations to any sectors other than trawl. Mr. Lockhart said when we do the five-year review of the trawl rationalization program we are not limited to trawl vs. non-trawl effects. We have in the past looked at other things and he was not sure why this would create a problem by saying “gear” vs. “sector.” Ms. Cooney explained this would be for generating information and to flesh out issues and concerns raised after implementing this program. Mr. Moore asked who is going to determine adverse gear impacts. Mr. Lockhart said NMFS would present the analysis of impacts and it would be up to the Council to make that determination.

Ms. Cooney said this motion does not limit the review to five years. This is just saying this issue has been raised, gear impacts were not specifically evaluated, and NMFS intends to evaluate gear impacts and provide the information to the Council in the near future.

Mr. Anderson moved and Mr. Myer seconded a motion to amend the amendment (Amendment 3 to Amendment 2 to Motion 17) to strike the second sentence of the motion.

Dr. Hanson said Mr. Anderson cannot amend the amendment of his own motion. Mr. Anderson then withdrew his motion and Amendment 3 was not voted on.

Dr. Hanson moved and Mr. Ortmann seconded a motion to amend the amendment to the main motion (Amendment 4 to Amendment 1 to Motion 17) to strike the second sentence of the motion.

Mr. Anderson explained this second sentence violates some national standards by dictating how an allocation will be made.

Amendment 4 to Amendment 2 to Motion 17 carried (Mr. Lockhart voted no).

Amendment 2 to Motion 17 as amended carried unanimously.

Motion 17 as amended carried unanimously.

Mr. Moore moved and Ms. Culver seconded a motion (Motion 18) to initially allocate 52 percent of the trawl allocation of widow rockfish to the whiting sectors if the stock is under rebuilding or 10 percent of the trawl allocation or 500 mt of the trawl allocation to the whiting sectors, whichever is greater, if the stock is rebuilt. If the stock is overfished when the initial allocation is implemented, the latter allocation scheme automatically kicks in when it is declared rebuilt. As decided under Motion 16, the distribution of the whiting trawl allocation of widow to individual whiting sectors will be done pro rata relative to the sectors' whiting allocation.

Mr. DeVore asked, under the scenario where widow is still under rebuilding when the initial allocation is made and then subsequently rebuilt, 42 percent of the initial whiting sector allocation is applied back to the combined shoreside trawl sector and Mr. Moore said yes.

Motion 18 carried (Mr. Myer recused, Mr. Lockhart abstained).

F.4 FMP Amendment 20 – Trawl Rationalization—Community Fishery Association (CFA) and Miscellaneous Clarification Issues

F.4.a Agenda Item Overview (04/07/09; 4:08 p.m.)

Ms. Heather Brandon and Mr. Jim Seger provided the agenda item overview and provided a powerpoint (http://www.pcouncil.org/bb/2009/0409/F4a_SUP_ATT7_0409.pdf).

F.4.b Reports and Comments of Management Entities and Advisory Bodies (04/08/09; 8:10 a.m.)

A Supplemental SSC Report and Supplemental WDFW Report were provided. Mr. Jones provided Agenda Item F.4.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item F.4.b, Supplemental GAP Report.

F.4.c Public Comment

Mr. David Livingstein, restaurant owner, central CA
Dr. Astrid Schultz, Eco-Trust, Portland, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Ben Bowman, Food & Water Watch, San Francisco, CA
Mr. Lloyd Whaley, Brookings, OR
Mr. Larry Collins, San Francisco Crab Boat Owners Association, San Francisco, CA
Mr. Zeke Grader, PCFFA, San Francisco, CA
Mr. Michael Bell, TNC, San Francisco, CA
Ms. Erika Feller, TNC, San Francisco, CA
Mr. Dave Bitts, PCFFA, Eureka, CA
Mr. Richard Carol, Ocean Gold Seafoods, Westport, WA
Mr. Joe Bersch, M/S Excellence, Seattle, WA

F.4.d Council Action: Define CFA and Address Miscellaneous Clarification Issues (04/08/09; 11:05 a.m.)

Ms. Culver moved (Motion 19) for the Council to adopt Agenda Item F.4.b, Supplemental WDFW Report, which clarifies three issues included in actions taken by the Council in November 2008. The clarifications are as follows: 1) relative to the dropping of the same two years, the intent was that permit holders would have the ability to select different sets of years; 2) for the whiting rollover, the intent was to not allow a rollover for whiting; and 3) for buffers, the intent of the motion in November was to not have buffers for the non-co-op segment of the mothership fishery. Mr. Moore seconded the motion. Motion 19 passed unanimously without further discussion.

Ms. Vojkovich moved (Motion 20) that the Council adopt Motion #1 from Agenda Item F.4.d, Supplemental Motion, which specifies preliminary goals for Community Fishing Associations (CFAs). Ms. Fosmark seconded the motion.

Ms. Vojkovich spoke to her motion. She said she is trying to reconcile the trawl rationalization program concept with the needs of the communities, choosing to focus on the vulnerable communities identified in the trawl rationalization analysis. This vehicle of CFAs could allow communities to have an effect on their own stability. Infrastructure, which was part of the vulnerability analysis, is important to sustain our fishing fleets, ports, and communities. What we set up must be measurable, so that we can score the changes and determine whether CFAs have met the goals of the program. Measurable elements could be

taken from the DEIS community vulnerability analysis. The goals in my motion would be the goals of the CFA program should the Council decide to allow CFAs. This motion is not to have CFAs, but rather CFA goals should we choose to have CFAs.

Ms. Culver moved to amend Motion 20 (Amendment #1) to include that the Council would consider two alternatives: 1) no CFAs (status quo), and 2) allow CFA formation with the goals and objectives in the original motion. Mr. Dale Myer seconded the motion.

Ms. Culver spoke to her amendment to Motion 20. She said that she would like the Council staff to come back in June with an analysis of both of these options. That's the intent of the motion.

Amendment #1 to Motion 20 passed unanimously.

Mr. Moore asked Ms. Vojkovich about a clarification on the language in the second paragraph in her motion; specifically, a primary groundfish fishing community that might qualify as a CFA, would that fishing community be an entity that would come in and help "fix" the problem – is that the concept you had in mind?

Ms. Vojkovich said because we are speculating and using estimates in the groundfish DEIS; there may be some fishing communities that might be vulnerable after implementation of the trawl rationalization (TR) program. The focus is on those communities negatively impacted by the TR program. Mr. Moore asked if the intent is, for example, that the "city of Newport" would not become the CFA you are talking about? Correct, said Ms. Vojkovich.

Mr. Williams asked for a clarification from Ms. Vojkovich. In terms of the definition of vulnerable, are you anticipating that staff would come back with additional analysis of what a vulnerable community is? Ms. Vojkovich said that maybe staff would be able to answer that better than I, I don't know what they will do with the request. But if it is not something they would do, then putting that request at the end of the Council meeting would be appropriate.

Dr. McIsaac asked if vulnerable and primary communities are defined in the DEIS and the process by which they would become such, or if the staff is capable of looking at that and bringing back analysis in June? Mr. Seger said we would have to look into that, the primary groundfish fishery communities are not specifically defined, a few were identified and we would need to look into that formal community definition and bring that back to the Council for review.

Mr. Williams moved to amend the motion (Amendment #2 to Motion 20) to include all communities identified in Chapter 4 of the DEIS as a starting point for this evaluation. Mr. Moore seconded the amendment.

Mr. Lockhart asked if this would change the goals of CFA or just look at all communities? Mr. Williams answered he did not intend to change the goals, but to look at a full range of communities, not just the vulnerable ones.

Ms. Vojkovich asked, under the amendment, are you including all communities in the analysis? Yes, said Mr. Williams.

Amendment #2 passed unanimously.

Ms. Cooney asked if this motion is talking about communities as defined in the MSA? Ms. Vojkovich said she is trying to get to how to define communities first; then figure out the mechanics.

Ms. Culver asked, on the question of a process – does the Council have the ability to provide guidance to staff later? The answer was yes. Ms. Culver continued, in looking at the Supplemental Attachment 7, there seems to be three options before the Council on creating a definition using the MSA, or Regulatory Flexibility Act (RFA), or our own definition of communities that is consistent with MSA. Is it the third option, our own definition? Yes, said Ms. Vojkovich.

Dr. McIsaac, for clarity on the amendment about the analysis, said the Council should be clear on what they want to see described in the analysis as time allows. In terms of analysis, did you mean vulnerable communities replaced by all communities, please be clear. He would like the Council to further clarify that and make it clear to the public as to what is before us.

Mr. Lockhart understands the goals stay as is – including only vulnerable communities; but the amendment would allow staff to analyze all communities to see whether they are vulnerable. Mr. Williams said yes, the objective is to give us an opportunity to expand and include other communities if the analysis results indicate that we should do so.

Main Motion 20 passed unanimously.

Ms. Vojkovich moved the Council adopt Motion #2 from Agenda Item F.4.d, Supplemental Motion, which provides organizational guidelines for CFAs. Ms. Fosmark seconded the motion.

Ms. Vojkovich said she is working from the assumption the Council has already made a determination of who will receive the QS and did not intend to open that discussion again. CFAs would not receive an initial allocation of QS. Also the requirement that trawl permits would be required was also a basic tenant from what we adopted, so that is the reason that was included in this organizational guidelines motion. Because we are not giving initial allocation, there might be a need or some interest for the transfer of QS under a divestiture time period if the Council chooses to move forward. Because we have the adaptive management program (AMP), we talked about the goals of the community stability program, and if the CFAs are established, we might see a need to put CFAs on top of the list for who would get the AMP QP when we consider how we might allocate the AMP QP.

Mr. Moore asked Ms. Vojkovich, in talking about CFA or RFAs, there are distinct differences in the statute [MSA], we have not talked about that. What is the purpose of bringing that issue in now as opposed to what our general idea of CFA is? Ms. Vojkovich said Mr. Moore may be right, it might cloud the issue; perhaps it would be best for her to alter her motion. He then asked about the divestiture stipulation. Is the idea that if the Council decides to use divestiture to handle QS in excess of control limits, would the CFA receive those like any other entity and does that imply we are going to allow the CFAs to exceed the control caps? Ms. Vojkovich said no on the second question; on the first question, we would have a moratorium on transfer of quota shares in the first 2 years of the program. If we allow divestiture on day one of the program, that divestiture during the moratorium could go to a CFA.

Dr. McIsaac asked Mr. Seger about what was adopted in November, discussed in March and would come up in June, as far as divestiture. Mr. Seger explained there was no divestiture discussion in November, there was discussion in March that was tabled to come back in June.

Mr. Moore asked Ms. Vojkovich, in view of the fact we have not yet taken up adaptive management, are you prejudging in some way what we are going to be doing under a separate agenda item? Is this more appropriate for the AMP agenda item?

Ms. Vojkovich said no, she is not presupposing anything. She was trying to address issues we need to deal with for CFAs. In discussion with constituents, she could see that there was a tie between CFAs and AMPs, which is highlighted in the motion.

Mr. Moore said would it be more appropriate to say that such an entity [CFA] may be entitled to AMP QP, so we keep this “in order” as we go to adaptive management later on. Ms. Vojkovich said he would be free to amend the motion.

Ms. Culver moved Amendment #1 to Motion 21 to take the third paragraph of Motion 21 (Motion 2 in Agenda Item F.4.d, Supplemental Motion) to include two options on divestiture-- 1) such an entity [CFA] is entitled to acquire QS during the first two years of the Trawl Rationalization program through a divestiture stipulation and, 2) the entity [CFA] would not be entitled to acquire QS during the first 2 years of the Trawl Rationalization program. And, on the next sentence in paragraph three of the main motion, create two options there also, 1) the entity [CFA] would have preferential status within the structure of the AMP and 2) no preferential status. Mr. Myer seconded the amendment.

Ms. Culver said the first part of the amendment doesn't warrant further analysis since we already discussed this; the second item has not been looked at so we need analysis on it.

Mr. Lockhart asked, is that to mean that CFAs are not eligible for AMP QP or would not receive preferential status in the AMP? Ms. Culver said, the latter, CFAs would not receive preferential status in the AMP program.

Ms. Fosmark was not supportive of Amendment #1; she feels we are creating a whole new analysis and feels it is important that the guidance given has the nuts and bolts to achieve success, if CFAs go forward.

Ms. Culver said she is asking for an analysis, that comes back in June, of adopting specific provisions of what a CFA would be entitled to. We need to get information in front of us to see what entitlements would be allowed to CFAs. She is hesitant to make that call right now, as no analysis or information is in front of us right now.

Mr. Moore moved to amend Amendment #1 to include dropping “or RFA” from the motion. Mr. Frank Warrens seconded the amendment.

Mr. Moore said we discussed this earlier and felt we should do it now.

Amendment to Amendment #1 passed unanimously.

Discussion of Ms. Culver's Amendment #1 continued. Mr. Williams responded to Ms. Fosmark's concerns by saying, we are getting ahead of ourselves by bringing elements into the decision, where we have not fully discussed some of the other items. The only solution is to try to include two options for analysis since we have not completed the CFA discussions. Mr. Myer concurred.

Dr. Hanson asked, in order to limit what the staff has to do, do you mean that the CFA would have a right of first refusal? Chair Hansen stated that Dr. Hanson was out of order because that had to do with the main motion, and we are still dealing with the amendment to the motion.

Amendment #1 to Motion 21 passed unanimously.

Dr. Hanson began again and stated that on the top of page 2, it seems like CFAs would get something less than right of first refusal if CFAs get preferential status in the AMP? Ms. Vojkovich said she was looking

at the adaptive management program as a way to get QP out to communities. The Council would consider how to distribute AMP QP, and if a CFA came forward the Council would consider CFA proposals first before all others. That is what her motion is talking about. Dr. Hanson explained “right of first refusal” would refer to a CFA getting to say yes or no to receiving AMP QP first before anyone else; Ms. Vojkovich said that right of first refusal is not her intent.

Ms. Culver asked, on the part of the motion regarding acquisition of QS in the first 2 years under a divestiture stipulation, are you limiting those entities that can acquire only to CFAs (and no other entities can acquire QS during that first 2-year period)? Ms. Vojkovich said because of the moratorium to transfer, during that 2-year time period, if an entity would like to divest to a CFA, then they could. Therefore, the exception would allow only CFAs to acquire QS during that time, would not allow for a free market QS buying and selling, and CFA could purchase just for purpose of divestiture by other entities that are over the accumulation limits.

Ms. Culver said, we heard during public testimony that some people thought CFAs should be allowed to receive divestiture fish [QS] “free of charge.” Are you proposing that acquiring QS during that divestiture time, CFAs would have to purchase QS that is being divested? Ms. Vojkovich said she is not making those decisions on how CFAs get it, as long as it is legal. Ms. Culver said the CFA’s would not be just given the QS that were over the accumulation limit? Ms. Vojkovich said she is not making requirements to gift that excess to CFAs.

Mr. Myer noted the problem brought up by Mr. Williams of talking about items before they are developed – such as divestiture, we haven’t decided to do divestiture yet. He is starting to wonder if we are getting into a legal problem here. He withdrew his comments and decided he answered his own question.

Main Motion 21 passed as amended unanimously.

Ms. Vojkovich did not make a third motion but asked that the Council members and constituency consider and comment on the following CFA elements: structure, operation, membership control, compliance, the need for exceptions, control and accumulation caps, and specific parts needed for a full package to bring back in June.

Mr. Williams asked what do you expect the staff to bring back in June? Ms. Vojkovich said she wasn’t asking Council staff to do anything. It is incumbent upon us [the Council members and other participants] to do anything. The deadline for this information for a June decision is hampering this. Mr. Williams said, you are specifically referring to what was in the “third” motion (not made) that you want people to come back with. Yes, said Ms. Vojkovich, but she sees the predicament in that request.

Dr. McIsaac said staff could indicate what the workload might be for Motions 20 and 21; and the future workload planning will be taken up on the Council agenda on Thursday.

Ms. Culver wanted some additional items on the list for staff to address before June. Relative to the presentation of the vulnerable communities and list in Chapter 4, could staff rank those communities from lowest to highest (non-whiting trawl landings from 2006 through 2008). Mr. Seger stated we can take the current information and give you a rank order based on landings. Ms. Culver, relative to the divestiture portion, she asked that staff include in the analysis the trade-offs of having only CFAs being allowed to acquire QS versus all entities being allowed to acquire QS during the divestiture period. Additionally, relative to the objective of measurable positive changes to the stability of vulnerable communities, I would appreciate it if staff could provide ideas on performance measures or criteria that would give us those measurable results. Finally, on page 2, in the third bullet down from Ms. Vojkovich’s un-made motion, Ms. Culver did not know to what extent the types of information that would be needed to look at

the ownership and control rules has been identified yet; what are the types of information we would be asking CFA members to disclose?

Mr. Wolford added that the Council staff consider the issue of geographical areas, how big or how small should the areas be, and should there be one or more CFA within a geographical area?

Mr. Williams asked Ms. Culver, on the CFA evaluation, he thought he heard Mr. Seger say “vulnerable communities”; but he felt it should be the entire list of communities. Ms. Culver said maybe we need two tables, the subset and the entire.

Dr. Hanson said we have created a giant package; there is not enough time before the June briefing book deadline to produce this. The staff tasking may not be able to be done in the timeframe suggested here. Council members should consider whether we want to deal with this under a trailing amendment, and that can come up under staff tasking tomorrow.

Mr. Williams said Dr. Hanson expressed his viewpoints exactly, and added his concern that we need to consider the workload issue. Dr. McIsaac stated that when we get to future agenda meeting planning the Council staff can give us an update on workload and we can make a decision tomorrow about how the CFA work would fit into the bigger picture.

F.5 FMP Amendment 20 – Trawl Rationalization—Analysis Parameters for Adaptive Management Program

F.5.a Agenda Item Overview (04/08/09; 3:30 p.m.)

Mr. Burden provided the agenda item overview (PowerPoint presentation); joined by Dr. Dahl.

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

Dr. Ralston provided Agenda Item F.5.b, Supplemental SSC Report. Mr. Rob Jones provided Agenda Item F.5.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item F.5.b, Supplemental GAP Report.

F.5.c Public Comment

Mr. Zeke Grader, PCFFA, San Francisco, CA
Ms. Jenn Kusauki, NRDC, San Francisco, CA
Ms. Laura Pagano, NRDC, San Francisco, CA
Mr. Tommy Ancona, Tommy’s Marine Service, Fort Bragg, CA
Ms. Dorothy Lowman, ED, Portland, OR
Mr. Shems Jud, ED, Portland, OR (Powerpoint with Dorothy)
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Mr. Ben Bowman, Food & Water Watch, San Francisco, CA

F.5.d Council Action: Adopt Parameters for Adaptive Management Program (04/09/09; 8:10 a.m.)

Mr. Lockhart moved and Ms. Vojkovich seconded a motion to adopt Agenda Item F.5.d, Supplemental Motion (Motion 26).

Mr. Lockhart said the AMP idea is that the Council's rationalization program alone would not be enough to achieve all of the stated objectives of the rationalization program. As far as the goals of the AMP as contained in the motion, we have heard testimony that maybe we should just focus on one or two; however, he indicated that he feels all of these are viable goals. One or two goals might be good to focus on for now, and then add additional goals later. On community stability, we started out with that concept and the possibility that the smaller communities might be affected by rationalization, but we also heard that larger communities might also be affected. He indicated that maintaining the processor/harvester relationship is very important and that might be a goal that we want to address in the future. Conservation is also a goal he is concerned about. He indicated that the rationalization program and the AMP could promote lower impacts on habitat and protected resources. He spoke to the final goal in the written motion of facilitating new entrants. He indicated that people have mentioned that it may become difficult for new entrants to come into this fishery, simply because it will be difficult to afford the cost of buying quota. He indicated that he felt facilitating new entry is a valid goal. He said that other councils have been struggling with this too.

Mr. Lockhart then spoke to the timeline of making the final decision in June. He indicated that there is not a lot of time for the agency to meet the implementation goal of January 2011. If the AMP is too complicated, it would further complicate and bring confusion to the broader rationalization program and he did not want that to happen. He would not want to endanger the entire TIQ program due to problems that might arise in setting up an AMP. He indicated that having a waiting period to see what the impacts of a TIQ program are on communities was the reason for the 2 year pass-through option contained in the motion. He did not want people to think we are not going to do adaptive management. He also spoke to public testimony from some of the coastal communities over the past year that indicated economic hardships. He indicated that the pass through would give them a little extra time for the first 2 years to adjust to the new program. He then said by distributing all of the quota through a pass through in the first 2 years we will see the patterns of what is happening and be able to make adjustments.

Mr. Lockhart then spoke to the part of the motion addressing years three through five of the TIQ program. He knows it will take a lot of work from the Council and staff time. On the organizational structure for the AMP, he indicated that it is likely to require some combination of Council and NMFS-based processes to develop that program. He indicated that the motion specifies an end to the AMP at year five since we are going to do an overall review of the program then and that would allow modifications to the adaptive management program to be timed with that overall program review. Some people have called for the AMP to go away quickly and some for it not to go away at all. He indicated that he did not see the AMP ending anytime soon, so he asked for 10, 15, 20 years as possibilities for the length of the program, including an option of no sunset.

Mr. Cedergreen asked Mr. Lockhart, would this essentially allocate all of the OY of TIQ shares to fishermen and leave nothing in reserve in case some of the unintended consequences happened in the first two years? He asked, should we reserve 10 percent somewhere to accommodate unintended consequences?

Mr. Lockhart said yes, doing something like that might make sense. He indicated that in the first year of the rationalization program we envisioned a pass through since we may not hear of unintentional consequences for a while. For year two, we could address unforeseen consequences; and we could consider a reserve.

Mr. Moore said, on Mr. Cedergreen's question, conceivably you could have transfer of QP going on in year 1 that could have significant effects that could happen to a community and you might want to address that problem in year 2. He would like to try to analyze between now and June a "reserve" or something along those lines. Mr. Lockhart said he did consider that, but said basically year 2 would be

“reset” and QP would go back to the community. However, he indicated that it still could be a problem that may need to be addressed.

Mr. Moore said he did not see that intent of a “reset mechanism” in the second year contained in this motion. If you have that concept in mind, should we include that as something to look at between now and June? Mr. Lockhart said that would be important.

Mr. Myer asked Mr. Lockhart if you can adjust the formulas as we go through the review process? Mr. Lockhart said yes, you could adjust the formula; he sees several options, and the Council could have those discussions.

Ms. Culver said she likes the motion in general. She referred to the method of allocating AMP QP and specifically asked if those formulas could differ among the states? Mr. Lockhart said yes, the motion allows that flexibility. Ms. Culver spoke to the division of AMP QP and asked if we could have a sharing arrangement among the three states in the third year for the QP, not a hard allocation, but a type of sharing arrangement? Mr. Lockhart said yes, he believes so and the Council could discuss that. Ms. Culver spoke to the effect the motion might have on the first two years of the rationalization program. She indicated that during the first two years of the rationalization program there would not be a mechanism to provide incentives for certain types of behavior in those first two years. She asked if maybe there is something we could consider that might work in some type of incentive program. She asked if we are looking for some analysis to come back to the Council in June that might provide for some incentives in the first two years of the rationalization program? Mr. Lockhart said yes we could do that; he agrees that an incentive program is something the Council could consider in formulating its final AMP.

Mr. Steve Williams moved and Mr. Warrens seconded an amendment to Motion 26: regarding the method of allocating AMP QP-- ask NMFS and the states to develop a no-pass-through option that could be put in place in year one or two. He felt that we could do that.

Mr. Lockhart asked if the intent was to have it available for the June Council meeting? Yes, said Mr. Williams. Mr. Burden asked if the motion applied to all of the objectives for the AMP outlined in the main motion. Mr. Williams said it was for all goals and objectives.

Dr. McIsaac asked Mr. Williams, was it in year one or two? Mr. Williams said year one or two.

Ms. Vojkovich asked will the GAC be looking at this in May or will the Council see it in June? Mr. Burden said staff will have something to look at, at both the GAC in May and the June Council meeting.

The amendment to Motion 26 passed unanimously.

Mr. Myer liked the approach; allows for flexibility in the first two years; he supports the motion.

Motion 26 passed unanimously.

Ms. Vojkovich, in looking at the motion that passed, and looking into the future of the 5-year review period, asked for a discussion of “what happens in year five, etc” when staff brings this back to us in May/June. Ms. Culver said yes, we are piling a lot upon this 5-year review.

F.6 Final Consideration of Inseason Adjustments (if Needed)

This agenda item was not needed.

F.7 FMP Amendment to Implement ACL Requirements (04/09/09; 8:58 a.m.)

F.7.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

Mr. Moore asked about Annual Catch Targets (ACTs) and noted in the final rule for new NS1 guidelines, ACTs are not mandatory. Mr. DeVore agreed that ACTs are not mandatory in the new NS1 guidelines in cases where suitable Accountability Measures (AMs), such as an inseason monitoring and adjustment mechanism, exist. He was not suggesting that ACTs will be needed for groundfish management and, in fact, he and other Council staff believe they are not needed since we do have an inseason adjustment mechanism in the groundfish FMP. However, the ACT is an available threshold and could be needed for a particular stock or complex. The Amendment 23 process may determine this need and he did not want to presume otherwise.

Ms. Culver asked how intersector allocations and Amendment 23 might dovetail given that the intersector allocation decision formally allocated a portion of stock OYs to trawl sectors. Mr. DeVore explained that the new Annual Catch Limit (ACL) threshold is analogous to our current OY. Therefore, he envisions that all yield set-asides such as projected research catches, tribal harvest, and incidental bycatch in non-groundfish fisheries would be subtracted from the ACL. The remaining yield would then be allocated according to the intersector allocation provisions decided earlier this week. Ms. Culver asked if the trawl allocation would be applied to the remaining yield from the ACL or the ACT, if an ACT is specified for a given stock, and Mr. DeVore said that was correct.

Ms. Culver asked what is required for managing species that comprise a species complex under Amendment 23. Mr. DeVore said that there may be some species that currently comprise a complex that will be categorized as “ecosystem component” species and would be pulled out of the complex since, by definition, they would not be in the fishery. This change would unlikely change the harvest specifications for the complex. While Amendment 23 may not evaluate how harvest specifications are derived for species complexes, this will certainly be done in the next specifications process.

F.7.b Reports and Comments of Management Entities and Advisory Bodies

SSC Report

Dr. Steve Ralston provided Agenda Item F.7.b, Supplemental SSC Report.

Mr. Hansen asked if the SSC also reviewed FMPs from other regions nationally. Dr. Ralston said yes and the groundfish FMP is already well advanced at meeting the new NS1 guidelines and heeding SSC advice.

Mr. Moore noted that Council comments were heeded in developing the new NS1 guidelines. He asked Dr. Ralston about the Overfishing Level (OFL) line on graph b in the SSC statement and how it relates to our current Acceptable Biological Catch (ABC) and Dr. Ralston said they are identical. The solid line on the graph is the new ABC that incorporates a buffer from the OFL. The size of this scientific uncertainty buffer is a policy choice to be decided by the Council. Mr. Moore asked about the ACL line and noted that it comports with our current OY. Dr. Ralston agreed and noted that the ACL can be equal to the ABC if there is management certainty and there are no additional precautionary buffers beyond scientific uncertainty.

Mr. Moore asked about the SSC's recommendation to pursue frameworking in the FMP to accommodate the aggressive schedule for this amendment. Dr. Ralston explained the frameworking recommendation envisions much work done up front to incorporate new control rules rather than species-specific control rules in the FMP.

Ms. Culver asked why there is no ACT line in graph b. She thought the scientific uncertainty would be a buffer between the OFL and the ACL. Dr. Ralston said there is no requirement for an ACT since the Council has a suitable accountability measure in the inseason adjustment mechanism. The reduction between the OFL and the ABC incorporates scientific uncertainty. If there are economic, social, and ecological considerations for further buffers, then there would be a difference between the ABC and the ACL. She concluded we will need to specify an OFL, which is our old ABC, an ABC which incorporates scientific uncertainty, and an ACL which corresponds to our OY and may equal the ABC for healthy stocks. Dr. Ralston agreed.

Mr. Lockhart asked which items give the SSC the most concern about the schedule for this amendment. Dr. Ralston said he would do the meta-analysis for the new ABC considerations. The policy choice may take some time to determine since it may require some case studies to understand the implications of these policy choices.

Ms. Vojkovich said she was also concerned with the timeline and competing workload. She asked if the tasks outlined in the SSC report would all have to be done for this amendment. Dr. Ralston said the meta-analysis that will inform new ABC control rules, the evaluation of current AMs, and an evaluation of current precautionary adjustments in our FMP are all essential. Reviewing current rebuilding plans is less essential since we do this already. Categorizing stocks as in the fishery or ecosystem species is non-essential but may not be too involved a task. Assigning species vulnerability is part of a national working group process and may take a 2-day workshop for us to do.

Ms. Vojkovich said she was concerned about the meta-analysis given that stock assessment platforms and assumptions have changed over time. Dr. Ralston explained the meta-analysis process the SSC envisions. The SSC explained there would be an evaluation of the historical time series of assessments for a species to see how our view of a species biomass was estimated over time. This would be quantified as a coefficient of variation (CV) to understand the between-assessment variability of stock biomass and use this CV to rank scientific uncertainty. Dr. McIsaac used the history of the bocaccio assessment as an example of a highly variable stock assessment. Scientific uncertainty for such a stock could be quite large. He asked how this could affect the policy decision and Dr. Ralston said the meta-analysis would not concern the OY or ACL, but the ABC. With bocaccio, the spawning biomass was never estimated to be zero. The two metrics considered were spawning biomass and depletion.

Dr. McIsaac wanted clarification on the frameworking recommendation given the tasks and aggressive amendment schedule. Dr. Ralston said there are already proxy maximum sustained yield (MSY) exploitation rates (F_{MSY}) specified for groundfish species in the FMP that would determine the OFL. There will be a distribution of choices representing risk in setting an ABC that could be specified in the FMP that conceptually describe a control rule. Frameworking could involve a description of how the probability distribution about the ABC specification is determined without including species-specific details. The species-specific details and accompanying analysis would be provided in the specifications EIS or EA that follows the process frameworked in the FMP.

Mr. Moore asked if the scientific uncertainty buffer could be put between the ABC and the ACL rather than between the OFL and ABC. Dr. Ralston said this did not comport with the new NS1 guidelines which specify a hierarchy with OFL representing the highest level of catch, the ABC which incorporates the scientific uncertainty buffer, the ACL which incorporates a buffer for socioeconomic and other

considerations, and the ACT which incorporates management uncertainty. Mr. Moore said he understood the new NS1 guidelines allowed the ABC to equal the OFL and thought scientific uncertainty could be part of the buffer between the ABC and the ACL. Dr. Ralston agreed the ABC could equal the OFL, but only in cases where there is no scientific uncertainty.

F.7.c Public Comment

Ms. Laura Pagano, Natural Resources Defense Council, San Francisco, CA
Ms. Jen Kassakian, Ocean Conservancy, Seattle, WA

F.7.d Council Action: Scope and Plan FMP Amendment to Implement ACL Requirements

Ms. Vojkovich asked if the proposed timeline for this amendment was to synchronize it with the specifications process and Mr. DeVore said that was correct. She asked Ms. Cooney if the new specifications need to be implemented by 2011 and Ms. Cooney said yes. Ms. Vojkovich asked if the process could be completed later, such that the amendment could be fully implemented by 2012. Ms. Cooney said the specifications and Amendment 23 would go forward at the same time. She suggested we try our best to accommodate this new amendment. Mr. DeVore explained the ABC control rule may be the biggest hurdle and Dr. Ralston's willingness to do the recommended meta-analysis will be helpful.

Ms. Culver thought this aggressive schedule may be needed for implementing trawl rationalization by 2011.

Mr. Moore thought doing much of this amendment process could be synchronized with the specifications process and Mr. DeVore agreed. Typically, final specifications would be decided by April, so next April may be the deadline for getting Amendment 23 in place.

Ms. Vojkovich asked if the specifications process or trawl rationalization will drive the Amendment 23 process and Mr. DeVore thought the specifications process is really driving the schedule.

Mr. Moore suggested we adopt the draft schedule as general guidance keeping in mind there may some slippage in the schedule. He also suggested we framework Amendment 23 as much as possible. The Council concurred and offered this as their guidance in developing Amendment 23.

F.8 Review of Implementing Regulations for the Vessel Monitoring System

F.8.a Agenda Item Overview

Mr. Seger provided the agenda item overview.

F.8.b NMFS Office of Law Enforcement Report

Mr. Dayna Matthews provided a powerpoint presentation, on the Council's website at: http://www.pcouncil.org/bb/2009/0409/F8b_SUP_OLE_PPT_0409.pdf Mr. Neil Muller joined Mr. Matthews at the podium to answer questions.

F.8.c Reports and Comments of Management Entities and Advisory Bodies

Mr. Ancona provided Agenda Item F.8.c, Supplemental GAP Report. Deputy Chief Mike Cenci provided Agenda Item F.8.c, Supplemental EC Report.

F.8.d Public Comment

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR
Mr. Gary Winterstein, commercial fisherman, Warrenton, OR
Mr. Josh Churchman, commercial fisherman, Bolinas, CA
Mr. Andrew Kleinberg, commercial fisherman, Bolinas, CA
Mr. Jeremy Dierks, commercial fisherman, Bolinas, CA
Mr. Tom Ghio, Ghio Fish Company, Salinas, CA

F.8.e Council Discussion on Implementing Regulations for VMS

Mr. Williams asked Dr. McIsaac about public testimony from testifiers who wanted to coordinate and communicate with those agencies involved with VMS. It seemed like many of the concerns were communication issues. What options do we have to provide a forum to aid in communication? Dr. McIsaac said there is some opportunity depending on how frequently the committee might meet and the frequency of it. There is funding from Pacific States Marine Fisheries Commission (PSMFC) for purchase of VMS units, but committee meetings would have to come out of our budget. With respect to the ad hoc committee getting together, the costs could be minimal. In response to a question from Dr. McIsaac, Mr. Matthews said appropriate agenda items for the committee would be communication, evaluation of technologies, and review of regulations to clarify what they say. If there are changes to regulations that are proposed, they could be looked at by the committee. As far as looking at individual cases or dispositions, that would not be appropriate.

Mr. Moore asked Mr. Matthews to review the specifics with respect to the circumstances for allowing a vessel to turn off its VMS units. Mr. Matthews responded that there are different ways to turn off the unit. If a vessel is going to leave the fishery for the remainder of the calendar year, a notification needs to be received from the vessel owner. Also, if they leave the Exclusive Economic Zone (EEZ) or haul out for more than 7 days they can make a notification by phone to the VMS manager in Sandpoint. The issue is not the notification but the transaction cost with the vender for turning on and off the accounts.

Ms. Fosmark asked that if an ad hoc committee is convened that they look at a number of issues. One is the difficulty of downloading the software and data needed to use the management line. We should find ways to get that information available to the fishery. She also asked that they address the transiting, drifting, and missing beacon notification, including the obligations on the fishermen and NMFS to possibly reduce some of these violations that have to be investigated. Finally, look at some of the issues regarding offsetting the catch value with the appropriateness of the VMS units on vessels that are a certain size and unable to keep them powered on all the time.

Mr. Cedergreen moved (Motion 27) to exempt currently licensed and active Bolinas, California open access fishermen from the requirement to have VMS. Ms. Fosmark seconded the motion. Ms. Vojkovich said she was not comfortable with taking this action without having any information, just the information from the fishermen. We haven't looked at their fishing patterns; there is no data here other than what they said during public testimony. Mr. Lockhart expressed similar concerns. Ms. Cooney said that this action would be a regulatory amendment that was not noticed for this meeting. Mr. Cedergreen withdrew his motion. Motion 27 withdrawn and not voted on.

Mr. Cedergreen moved (Motion 28) to have the ad hoc VMS committee meet in the near future to look at the issues brought up today, including the Bolinas issue and do so in a manner to be included in the groundfish specifications for 2011 and 2012. Ms. Fosmark seconded the motion. Mr. Warrens noted the precedent for exceptions, such as that made for the dory fleet. Dr. McIsaac noted the need to review the current composition of the VMS committee and that the chairman might need to make some replacement

appointments. He also asked Ms. Cooney whether this action might be taken as an inseason groundfish action? Ms. Cooney noted that this action would be a rulemaking and could be done on a different schedule than the biannual specifications, but would not be part of the routine inseason management measures.

Motion 28 passed unanimously.

Mr. Ortmann asked the staff to provide a written response to the two letters received from the California assemblyman.

G. Administrative Matters

G.1 Legislative Matters (04/05/09; 3:37 p.m.)

G.1.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

G.1.b Legislative Committee Report

Mr. Burner read Agenda Item G.1.b, Supplemental LC Report.

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

None.

G.1.d Public Comment

None.

G.1.e Council Action: Consider Legislative Committee Recommendations

Mr. Moore moved and Ms. Fosmark seconded a motion (Motion 6) to accept the report of the Legislative Committee as shown in Agenda Item G.1.b, Supplemental LC Report. Motion 6 passed unanimously.

Mr. Moore moved and Ms. Fosmark seconded a motion (Motion 7) to direct the Council's Executive Director to send a letter to the staff of the U.S. Senate Subcommittee on Commerce, Science and Transportation expressing support for the following three aspects of H.R. 1080:

- Correct confusing language in the Western and Central Pacific Fisheries Commission Implementation Act (WCPFCIA) to clarify that the U.S. shall be represented by five U.S. Commissioners, "one of whom shall be a member of the Western Pacific Fishery Management Council, and one of whom shall be a member of the Pacific Fishery Management Council."
- Amend the WCPFCIA and the Pacific Whiting Act of 2008 to remove unintentional ethics and conflict-of-interest restriction on U.S. representatives and clarify that individuals appointed to serve the U.S. through either the Western and Central Pacific Fisheries Commission or the U.S./Canada Pacific Whiting Agreement "shall not be considered Federal employees except for purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code."

- Amend the Pacific Whiting Act of 2008 to specify that the U.S. shall appoint no more than two rather than six scientific experts to the joint technical committee under the U.S./Canada Pacific Whiting Agreement.

Motion 7 passed. Mr. Lockhart abstained.

G.2 Approval of Council Meeting Minutes

G.2.a Council Member Review and Comments

Chairman Hansen called the Council members attention to the draft November 2008 Council meeting minutes (Agenda Item G.2).

G.2.b Council Action: Approve November 2008 Council Meeting Minutes

Mr. Moore moved (Motion 29) the November 2008 Council meeting minutes be approved as submitted in Agenda Item G.2.a, Attachment 1. Mr. Warrens seconded the motion.

Mr. Myer proposed a friendly amendment to correct Mr. Parker's first name on page 22 from Ben to Bert. Mr. Moore and Mr. Warrens accepted the friendly amendment.

Motion 29 passed unanimously.

G.3 Membership Appointments and Council Operating Procedures

G.3.a Agenda Item Overview (04/09/09; 2:28 p.m.)

Dr. John Coon provided the agenda item overview.

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

None.

G.3.c Public Comment

None.

G.3.d Council Action: Consider Changes to Council Operating Procedures and Appoint New Advisory Body Members as Needed

Mr. Moore moved and Mr. Cedergreen seconded a motion (Motion 30) to change the CPSMT membership in Council Operating Procedure (COP) 3 to state "up to four NMFS positions, one of which shall be from the NWFSC."

Mr. Lockhart said he would have to abstain from the vote because he was not here during the Closed Session to discuss this item and had not had time to discuss the change with his colleagues at the NWFSC.

Motion 30 passed. Mr. Lockhart abstained.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 31) to appoint Dr. Robert Emmett to the newly created CPSMT position. Motion 31 passed. Mr. Lockhart abstained.

Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 32) to have the Council appoint Mr. Daniel Erickson to the Oregon Department of Fish and Wildlife position on the GMT. Motion 32 passed. Mr. Lockhart abstained.

Mr. Lockhart moved and Ms. Vojkovich seconded a motion (Motion 33) to have the Council appoint Dr. Jason Cope to the NMFS NWFSC position on the GMT. Motion 33 passed unanimously.

Regarding the Tribal Fisher vacancy on the GAP, Chairman Hansen appointed Mr. Roger Bain to fill that position on an interim basis for the June GAP meeting. He also directed Council staff to solicit nominations for the position to review and make a regular appointment at the June Council meeting.

G.4 Review of Proposed Rule on Council Statement of Organization, Practices, and Procedures (Pending Issuance of Rule)

This agenda item was cancelled.

G.5 Future Council Meeting Agenda and Workload Planning (04/09/09; 2:35 p.m.)

G.5.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview. He briefly summarized the contents of Supplemental Attachments 4-7. He noted that due to the expected amount of time it would take to complete the trawl rationalization items in June, he was suggesting several proposed agenda items be dropped (Supplemental Attachment 5). He noted that considering the CFA issue as a trailing amendment would help make the June agenda achievable. Mr. Burden spoke to Agenda Item G.5.a, Supplemental Attachment 7. He focused on the amount of work it would take to analyze the Council's motion on CFAs.

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

None.

G.5.c Public Comment

Ms. Dorothy Lowman, Environmental Defense, Portland, OR. Spoke to not letting work on CFAs delay final approval of the whole trawl rationalization program in June.

Mr. Santi Roberts, Oceana, Monterey, CA. Spoke in support of no reconsideration of the Council's action on HMS Amendment 2.

Ms. Erika Feller, The Nature Conservancy, Monterey, CA. Spoke in support of including CFAs in the Council's action on trawl rationalization.

G.5.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

Mr. Lockhart spoke about his intention to rescind the decision on open access made at the March meeting (which he announced earlier in the week). Mr. Lockhart said it would be an unprecedented action and he is now convinced that he should not break the precedence. However, NMFS still has strong conservation

concerns about the action in March and the March action does not accomplish that much or provide us that much more information. We already have the same information from the VMS program, so the March action will add extra costs. Based on the information that is available, it might be difficult for the Federal government to proceed to implementation.

Ms. Culver appreciated Mr. Lockhart's comments and the chance to have a positive, open discussion on the action. She said there were a couple of items that needed further clarification. There was some confusion on her part relative to the actual fisheries that were covered and required to register; she thought directed fisheries for all groundfish, but found out we are looking at incidental too. Also, the intent for registration for state waters fisheries might not be accomplishable. She suggested the Council not transmit the final action to NMFS and schedule an opportunity to clarify the intention of the March motion before moving forward.

Mr. Moore said he is concerned with the Council action and also that we not use a clarification process to completely modify something the Council voted on. He felt the motion was fairly clear.

Mr. Steve Williams asked how long it might be before we find out what the NMFS decision is if we sent the amendment to NMFS. Mr. Lockhart said in the past it has been a few weeks to a few months.

Ms. Cooney said this is an FMP amendment and there is a statutory process (60 day comment period), so it triggers a longer process.

After some further clarification about the NMFS approval process, Dr. McIsaac asked if the Council would like to schedule some sort of verbatim description of the motion and discussion of the action perhaps as early as September. Should the staff proceed or wait for further consideration?

Ms. Culver said she is not sure how to accomplish this, but relative to the two issues she had, she would like to have some clarification on them as to what was adopted, who is affected, and whether it meets the objectives.

Ms. Vojkovich asked what happens if we don't like it? Dr. Hanson explained the rules of how to rescind a motion.

Mr. Lockhart suggested NMFS and Council staff meet to put together information and provide a report to the Council in June or a letter to the Council members in June as a way forward. Mr. Moore said if Mr. Lockhart is going to do that, he wants to make sure that you review the Council discussion as well. The Council concurred.

Dr. Hanson moved and Mr. Warrens seconded a motion (Motion 34) to treat the CFA issues as a trailing amendment. Dr. Hanson said this is a large and complex workload item. There is no way staff have time to do anything on this between now and the GAC and/or June meeting. The CFAs have been discussed in the Trawl Individual Quota Committee (TIQC) and the industry, public, and nongovernmental organizations (NGOs) have started additional discussions, but this issue is not ready in time with the rest of the package for final action in June. We need to ensure staff time and effort to keep the quality of the current trawl rationalization package.

In response to a question by Mr. Moore concerning the question of divestiture which might relate to CFAs, Dr. Hanson said no, he did not include anything in his motion about divestiture.

Mr. Burden stated he was not entirely clear on the best approach at this point, but felt that one way might be to go forward with CFAs as a trailing amendment that was not in place at the start of the program.

Then, deal with divestiture in regard to CFAs when we complete CFAs (i.e., have CFAs accomplished prior to divestiture). He noted that November might be the appropriate time to bring CFAs back on the Council agenda.

Ms. Vojkovich was concerned about the impacts from the delay of a trailing amendment and wondered about the possible timeframe. Dr. Hanson said he hopes that it would be completed in such a time that when we get to the third year, then it would be ready to go.

Motion 34 passed unanimously.

Mr. Lockhart said NMFS has had some internal planning sessions and believes the Council does need to make the majority of the decisions that form the bulk of the TIQ program in June if we are to get the program in place by January 2011. It will take a lot of work on our part, Council and state staffs – it is a very ambitious schedule.

Dr. McIsaac asked for further Council direction on removing items from the preliminary June agenda. Ms. Fosmark suggested delaying EFPs to September. Mr. Helvey suggested postponing the albacore report to November and dropping the HMS NMFS Report. However, he stated he did want an HMS NMFS report in September and November to talk about the potential of converting the drift net fishery to a longline fishery. Mr. Moore suggested that there was no strong need for a Legislative Committee meeting in June and he also suggested eliminating the offshore aquaculture briefing. Dr. McIsaac also noted the MBNMS item would be better fitted to the September meeting in the Bay area. Ms. Fosmark asked for 15 minutes for a presentation on the value of commercial fisheries with regard to MPAs.

H. Salmon Management

H.1 Update on NMFS Draft Biological Opinion for California Water Projects and Winter Run Chinook Fisheries

H.1.a Agenda Item Overview (04/06/09; 8:10 a.m.)

Mr. Chuck Tracy presented the agenda item overview.

H.1.b NMFS Report

Mr. Mark Helvey presented Agenda Item H.1.b, Supplemental NMFS Report.

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

Mr. Stuart Ellis presented Agenda Item H.1.c, Supplemental HC Report.

H.1.d Public Comment

Mr. Joel Kawahara, troller, Seattle, WA

H.1.e Council Discussion on Update of NMFS Draft Biological Opinion for California Water Projects and Winter Run Chinook Fisheries

Mr. Helvey stated NMFS would consider making the draft EFH consultation for the Central Valley Project and State Water Project Operations Criteria and Plan (OCAP) available on-line.

Mr. Tracy asked if NMFS was planning on combining the EFH consultation and Biological Opinion into one document. Mr. Helvey replied no.

H.2 Work Group Report on Causes of the 2008 Salmon Failure

H.2.a Agenda Item Overview (04/06/09; 8:27 a.m.)

Mr. Tracy presented the agenda item overview.

H.2.b Work Group Report

Dr. Churchill Grimes and Dr. John Stein provided a powerpoint presentation summarizing Agenda Item H.2.b, Work Group Report.

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

Dr. Steve Ralston presented Agenda Item H.2.c, Supplemental SSC Report. Dr. Ralston concluded by stating that he recused himself from the drafting of the report as he is a direct supervisor of one of the authors of the report.

Ms. Vojkovich asked if the SSC discussed any specific shortcomings of the work group report. Dr. Ralston replied the only specific issue that came up was the report's focus on the 4 years affecting the 2004 and 2005 broods. The SSC felt the report would be more robust if it included a longer perspective that would allow interactions of factors to be observed.

Dr. Robert Kope presented Agenda Item H.2.c, Supplemental STT Report.

Mr. Wolford asked if diversity could be achieved in a hatchery environment. Dr. Kope replied yes, but it would be difficult to achieve the same level of diversity exhibited by natural populations.

Mr. Roth asked if the constant fractional marking would allow determination of the contribution of hatchery fish spawning naturally. Dr. Kope replied yes, as long as it was accompanied by adequate monitoring.

Mr. Lockhart asked if the STT was recommending the Council not take action on developing conservation objectives for natural spawning populations at this time. Dr. Kope replied that there was not enough data collected on natural spawning populations to determine the contribution of hatchery origin fish and whether natural populations are sustainable, which would preclude developing meaningful objectives.

Dr. McIsaac asked if the STT examined the historical upwelling information with regard to previous Sacramento River fall Chinook (SRFC) abundance. Dr. Kope replied not specifically, but the STT conclusion that ocean conditions were likely the proximate cause of the collapse relied on other indicators such as the nesting failure of Cassin's auklet.

Dr. Tom Welsh and Mr. Jim Hie presented Agenda Item H.2.c, Supplemental SAS Report.

Mr. Williams asked if the funding source for net-pen acclimation was re-secured. Mr. Hie replied that it was restored for 2008, but was unsure of the long-term status.

Mr. Stuart Ellis presented Agenda Item H.2.c, Supplemental HC Report.

Mr. Wolford asked how interaction of non-native species like striped bass would affect SRFC when they have coexisted for many years. Mr. Ellis replied that there are chronic effects that can interact with other effects to cause significant damage to the SRFC population.

Mr. Wolford asked how contaminants, in particular chloramine, may have affected SRFC. Mr. Ellis replied there are potentially both chronic and acute effects from various contaminants, but that chloramine was not considered a high risk.

Mr. Lockhart asked how Council salmon management would change if the information needs listed were addressed. Mr. Ellis replied ecosystem based management for salmon would require decisions outside the Council process.

Dr. McIsaac commended Mr. Ellis on the professional and comprehensive nature of the HC statement.

Mr. Wolford asked how the biological opinion on Sacramento winter Chinook could be detrimental to SRFC. Mr. Ellis replied there were no specific threats discussed, just a desire to note the importance of SRFC to the state and the Council.

Mr. Roth asked if the HC recommended continuing the condition factor monitoring. Mr. Ellis replied that it would be very useful, and should be expanded to the Oregon and Columbia River stocks. Mr. Roth noted that if the condition factor data could be available in time, it could potentially be incorporated in forecast models, which could advance ecosystem management implementation.

H.2.d Public Comment

Mr. Joel Kawahara, salmon troller, Seattle, WA

Mr. Dave Bitts, PCFFA, Eureka, CA

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

Ms. Fosmark asked what evidence there was that ocean conditions were not the cause of the collapse. Mr. MacLean replied that the surface water appearance was not similar to the sterile appearance that was present during the 1983 *El Niño* event.

Mr. Roger Thomas, Golden Gate Fishermen's Association, San Francisco, CA

H.2.e Council Discussion Work Group Report on Causes of the 2008 Salmon Failure

Mr. Ortmann asked how the authors would finalize the document. Dr. Stein replied the work group would reconvene to incorporate the comments from the Council and advisory bodies. The document would then be released as a NOAA technical memorandum and then as a manuscript for a peer reviewed publication. Some of the recommendations received from the Council go beyond the scope of identifying the cause of the collapse, and will require some discussion among the affected agencies on how to proceed.

Mr. Cedergreen noted that while both ocean and freshwater environments affect salmon abundance, only the freshwater environment is under direct influence by people, and that is where the Council should focus its efforts to increase survival. Dr. Stein agreed, noting that the Council needed to manage fisheries in light of what ocean conditions were.

Mr. Steve Williams asked what time scale would be necessary to develop a more comprehensive view of SRFC. Dr. Grimes replied that it would depend on the time series of data available for the various factors examined. The essential issue is understanding what drives recruitment.

Mr. Anderson noted that while SRFC was the focus of this report, there was a coast-wide problem, which could be divided into three areas that humans can influence: freshwater habitat, hatchery operations, and ocean acidification.

Ms. Vojkovich asked if the report recommendations were prioritized by ease of implementation and if costs could be determined. Dr. Grimes replied that the recommendations were not prioritized, but that hatchery reform was probably the most tractable. Cost was not explicitly examined, but hatchery reform was probably less expensive than habitat restoration.

Ms. Vojkovich asked how and when the Council could engage in the recommended ecosystem management process and if it would replace the current Council management process. Dr. Stein replied that Council management would probably not change drastically under ecosystem management, but the process would be better informed.

Mr. Mallet asked for clarification of the term “proximate cause,” as it related to ocean conditions. Dr. Grimes explained that the term means that ocean conditions were the direct cause of the high mortality on the 2004 and 2005 brood SRFC; however, the ultimate cause was related to the greater susceptibility of the stock to such conditions due to reduced fitness from genetic homogeneity as a result of habitat simplification, hatchery practices, and loss of natural populations.

Mr Wolford recommended the work group consider looking at a longer time scale, and include an analysis of what caused the stock to increase rapidly in the early part of the decade, as well as the collapse. He recommended the report emphasize the ultimate cause for the collapse rather than the proximate cause, since the ultimate cause is what the recommendations address.

Mrs. Vojkovich noted that the report advances the need to look at a broad range of issues that affect California salmon resources, and recommended NMFS take a leadership role for expanding efforts to a coastwide salmon management approach. Mr. Lockhart replied that NOAA had initiated a program called NOAA West that was looking at issues that go beyond the NMFS role to include climate change and other issues. The Western Governors Agreement was another process that the states had initiated to address similar issues. NMFS scientists were investigating the effects of hatchery genetic influences on natural stocks, and the Council should be prepared to respond to their findings.

Mr. Roth recommended the Council support a hatchery review process for California as a starting point. A joint funding program similar to the Columbia River program may be possible with contributions from Congress and water-user mitigation funds.

Mr. Sones asked if there was any correlation between marine distribution of SRFC and Klamath River fall Chinook. Dr. Grimes replied there is little good information on ocean migration, but Klamath River fall Chinook did not respond similarly to SRFC, indicating that using other coastal stocks as indicators for SRFC may be problematic.

Dr. McIsaac summarized the Council recommendations and suggested that they provide the advisory body comments to the work group to assist in finalizing the report, and write a letter to Dr. Lubchenco recommending NMFS take the lead in convening a regional forum to coordinate a comprehensive strategy for optimizing salmon produced in California. The forum should consider such things as a hatchery practices review, a habitat protection measures review (including water management practices), biological

opinions for ESA listed stocks, recommendations for monitoring and research studies, and alternatives for future fishery management.

H.3 Tentative Adoption of 2009 Ocean Salmon Management Measures for Analysis

H.3.a Agenda Item Overview (04/06/09; 1:10 p.m.)

Mr. Tracy presented the agenda item overview.

H.3.b Update on Estimated Impacts of March 2009 Options

Dr. Robert Kope presented Agenda Item H.3.b, Supplemental STT Report.

Dr. McIsaac asked if the timing of the Canadian and Alaskan fishery updates were unusual. Dr. Kope replied no, that the information is typically released between the March and April Council meetings.

H.3.c Summary of Public Hearings

Mr. Cedergreen presented Agenda Item H.3.c, Supplemental Public Hearing Report 1. Mr. Warrens presented Agenda Item H.3.c, Supplemental Public Hearing Report 2. Mr. Wolford presented Agenda Item H.3.c, Supplemental Public Hearing Report 3.

H.3.d U.S. Section of Pacific Salmon Commission Recommendations

Mr. Gordy Williams presented Agenda Item H.3.d, Supplemental Attachment 1.

H.3.e North of Cape Falcon Forum Recommendations

Mr. Anderson reported that the recommendations from the North of Cape Falcon Forum were not complete, but would be prior to final Council action under Agenda Item H.7. There was sufficient progress, however, to proceed with tentative adoption of Council area management recommendations.

H.3.f Reports and Comments of Management Entities and Advisory Bodies

Ms. Vojkovich presented Agenda Item H.3.f, Supplemental CDFG Report.

Dr. McIsaac asked if CDFG had made a recommendation to the California Fish and Game Commission (CFGC) on the Sacramento River recreational fishery. Ms. Vojkovich replied the CDFG recommended the recreational fishery start no earlier than November 15 to avoid any impacts to SRFC; however, CFGC delayed its decision until the Tuesday following final Council action.

Messrs. Butch Smith, Jim Olson, Paul Heikkila, Duncan MacLean, Steve Watrous, Richard Heap, Mike Sorenson, and Craig Stone presented Agenda Item H.3.f, Supplemental SAS Report.

Mr. Heikkila noted the following corrections:

- Page 2, Cape Falcon to Humbug Mt commercial fishery, third sentence: delete “All salmon”, delete fourth sentence “Chinook 27 inch...”

Mr. Sorenson noted the following corrections:

- Page 6, Cape Falcon to Humbug Mt recreational fishery, second bullet, third sentence: change to “All salmon except Chinook, two fish per day.”

Mr. Stuart Ellis, Mr. Raphael Bill, and Mr. Herb Jackson representing the Columbia River Treaty Tribes, presented Agenda Item H.3.f, Supplemental Tribal Report.

H.3.g Public Comment

Mr. E.B. Duggan, Trinity River Guides Association, Redding, CA
 Mr. Ben Doan, Klamath Management Zone Fisheries Coalition, Crescent City, CA
 Mr. Duncan MacLean, Half Moon Bay Fishermen’s Association, El Granada, CA

Ms. Vojkovich asked if there was any interest in reserving the possibility of an early opening date for 2010 commercial fisheries in California. Mr. MacLean replied that at this time an early opening could jeopardize late season fisheries and was not worth the risk.

H.3.h Council Action: Tentatively Adopt Management Measures for 2009 Ocean Salmon Fisheries

Mr. Sones moved (Motion 8) to tentatively adopt treaty Indian ocean troll management measures for preliminary analysis by the STT including an overall Chinook quota of 39,000 and a coho quota of 60,000. The Chinook quota would be divided into a May-June Chinook directed fishery with a subquota of 19,000 and a July-September all species fishery with a 20,000 Chinook quota gear restrictions, size limits, and other appropriate regulations would be the same as in Preseason Report II, Table 3.

Mr. Anderson seconded the motion; Motion 8 passed unanimously.

Mr. Anderson moved (Motion 9) to tentatively adopt non-Indian commercial and recreational ocean salmon management measures for the area between the U.S./Canada border and Cape Falcon as presented in Agenda Item H.3.f with the following corrections:

- Pages 1 and 5, North of Cape Falcon, Supplemental Management Information, first bullet: change 42,000 Chinook to 41,000 Chinook, and change 220,000 coho to 210,000 coho.
- Page 5, U.S./Canada Border to Cape Alava (Neah Bay) and Cape Alava to Queets River (La Push subarea): change June 28 to June 27; change September 13 to September 20 (Neah Bay) and September 18 (La Push), and; change “Seven days per week” to “Tuesday through Saturday through July 17, then seven days per week thereafter.”
- Page 5, Queets River to Leadbetter Point: change September 15 to September 20.

Mr. Myer seconded the motion.

Mr. Anderson stated the change in the quotas were to keep impacts on lower Columbia River (LCR) natural tule Chinook below the 38.0 percent exploitation rate limit required under the NMFS ESA consultation standard, and to keep the coho impacts on Thompson River coho below the 10.0 percent level required under the Pacific Salmon Commission coho agreement. The Neah Bay and La Push five day per week season in July was intended to reduce Chinook impacts during the time when Chinook to coho ratios were normally highest. Allowing the fisheries to run an additional week in September was contingent on securing adequate funds to monitor the fisheries.

Motion 9 passed unanimously.

Mr. Williams moved (Motion 10) to tentatively adopt non-Indian commercial and recreational ocean salmon management measures for the area between Cape Falcon and the Oregon/California border as presented in Agenda Item H.3.f as corrected by the SAS.

Mr. Moore seconded the motion; Motion 10 passed unanimously.

Ms. Vojkovich moved (Motion 11) to tentatively adopt non-Indian commercial and recreational ocean salmon management measures for the area between the Oregon/California border and the U.S./Mexico border as presented in Agenda Item H.3.f.

Ms. Fosmark seconded the motion; Motion 11 passed unanimously.

H.4 Clarify Council Direction on 2009 Management Measures

H.4.a Agenda Item Overview (04/07/09; 8:02 a.m.)

Mr. Tracy presented the agenda item overview.

H.4.b Report of the Salmon Technical Team

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

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

None.

H.4.d Public Comment

None.

H.4.e Council Guidance and Direction

The Council provided no direction pending further discussions between the co-managers north of Cape Falcon.

H.5 Methodology Review Process and Preliminary Topic Selection for 2009

H.5.a Agenda Item Overview (04/08/09; 2:05 p.m.)

Mr. Tracy presented the agenda item overview.

H.5.b Report of the Scientific and Statistical Committee

Dr. Steve Ralston presented Agenda Item H.5.b, Supplemental SSC Report.

H.5.c Reports and Comments of Management Entities and Advisory Bodies

Mr. David Sones presented Agenda Item H.5.c, Supplemental Tribal Report.

Mr. Stuart Ellis presented Agenda Item H.5.c, Supplemental Tribal Report 2.

Dr. Kope presented Agenda Item H.5.c, Supplemental STT Report.

Mr. Roth asked how the STT would address any bias that was found in the mark-selective Fishery Regulation Assessment Model (FRAM). Dr. Kope replied that buffers could be developed to account for bias, or a level below which the bias would not be significant could be identified and fisheries managed not to exceed that level.

Mr. Roth asked if it was currently possible to provide an inseason update of mark-selective fishery impacts as recommended by the Columbia River tribes (Agenda Item H.5.c, Supplemental Tribal Report 2). Dr. Kope replied it would not be possible at this time.

Mr. Wolford asked if the STT list of topics was prioritized. Dr. Kope replied no, but the STT felt that results for all five would be available for review in 2009.

Mr. Gordy Williams asked if multiple fisheries would add to the classification of a mark-selective fishery as low intensity. Dr. Kope replied that the level currently considered low intensity includes an exploitation rate level for individual fisheries as well as a level for all fisheries combined, but those levels need to be examined.

Mr. Anderson asked if there was workload capacity for the STT to work on items identified in both the supplemental STT report and the supplemental SSC report. Dr. Kope replied that there was considerable overlap between the lists of topics in the two reports, but the STT had not evaluated additional workload associated with the SSC list. By the time the Council adopts a final topic list in September, the STT will have a good idea of workload capacity.

Mr. Tracy read into the record Agenda Item H.5.c, Supplemental MEW Report.

Mr. Mike Sorensen presented Agenda Item H.5.c, Supplemental SAS Report.

H.5.d Public Comment

None.

H.5.e Council Guidance on Potential Methodologies to Review in 2009

Mr. Steve Williams recommended items one through four and eight from the Supplemental SSC Report, should be high priorities for the SSC.

Dr. Dygert, requested tasks associated with mark-selective fisheries be combined in a way to allow comment through the methodology review process on the relationship between impact rates and data quality.

Mr. Anderson supported Mr. Williams' and Dr. Dygert's recommendations. He was concerned that much of the workload associated with analysis of mark-selective fisheries would fall to WDFW.

Mr. Wolford recommended developing predictions of fall ocean fishery impact on Klamath and Sacramento fall Chinook be a high priority.

Mr. Anderson recommended WDFW provide a briefing to the Council on the mark-selective fishery monitoring program and an overview of how the mark-selective FRAM operates, perhaps in September 2009.

Ms. Vojkovich recommended NMFS take the lead in a discussion of incorporating genetic data into fishery management programs.

H.6 Update on Mitchell Act Hatchery Environmental Impact Statement

H.6.a Agenda Item Overview (04/08/09; 1:14 p.m.)

Mr. Tracy presented the agenda item overview.

H.6.b NMFS Update on EIS

Mr. Robert Turner provided a powerpoint presentation summarizing the status of the Mitchell Act EIS process (available on the Council's website at:

http://www.pcouncil.org/bb/2009/0409/H5c_SUP_TRB2_0409.pdf).

Mr. Roth asked if a draft EIS would be available by fall 2009 given the expanded scope of the EIS. Mr. Turner replied yes, delays to this point have not been caused by the expansion of scope.

Dr. McIsaac asked if there was an analysis of the cost for various production levels that would maintain compliance with ESA requirements. Mr. Turner replied no, the only economic assumptions were that there would not be sufficient funds to construct a new hatchery facility, although funds would be available for improving existing facilities with weirs, rearing ponds, etc.

Dr. McIsaac asked if there were estimates of ocean harvest, assuming existing facilities were at full capacity and there were no other constraints. Mr. Turner replied the constraints at full production were biological, not financial, such as how many hatchery fish would be present on the spawning grounds.

Mr. Wolford asked for clarification on level 1 and 2 performance standards. Mr. Turner replied there were two important metrics in the performance standards: an index of influence of hatchery fish on the natural population and the proportion of hatchery fish in a natural spawning population. Level 1 has the former at less than 0.50 and the latter at less than 0.10. Level 2 has the former at less than 0.67 and the latter at less than 0.05.

Mr. Roth requested information on the effect of the alternatives on fisheries be made available as soon as possible to give managers a chance to develop comments for the final EIS. Mr. Turner replied that the efficiency of improved hatchery practices offset the reductions on production levels, and selective fisheries can increase harvest opportunities.

H.6.c Reports and Comments of Management Entities and Advisory Bodies

Mr. Raphael Bill presented Agenda Item H.6.c, Supplemental CRITFC Report.

H.6.d Public Comment

Mr. Dave Bitts, PCFFA, Eureka, CA

Mr. Zeke Grader, PCFFA, San Francisco, CA

Mr. Joel Kawahara, troller, Seattle, WA

H.6.e Council Discussion

Mr. Steve Williams recommended that Mr. Turner provide an update when the Draft EIS was available. If Mitchell Act funding remains level, ODFW's ability to manage programs associated with Mitchell Act will suffer.

Mr. Roth agreed with Mr. Steve Williams' comments. Other mandates such as ESA have reduced the ability of Mitchell Act funds to support fisheries.

Mr. Gordy Williams asked what level of information on non-Mitchell Act facilities would be available in the EIS. Mr. Turner replied the EIS will not prescribe operations for those facilities, only allow Mitchell Act programs to react to operations of other facilities. In addition, if non-Mitchell Act facilities achieve either level 1 or level 2 performance standards, their operation relative to ESA requirements may be covered by the EIS NEPA analysis.

Mr. Roth recommended notifying managers that alternative 2 included zero funding for Mitchell Act hatcheries.

Mr. Anderson observed that status quo for Mitchell Act hatcheries was not an option; more funding needed to be devoted to hatchery reform if fisheries were to continue while natural populations recovered.

H.7 Final Action on 2009 Management Measures

H.7.a Agenda Item Overview (04/08/09; 3:02 p.m.)

Mr. Tracy presented the agenda item overview.

H.7.b STT Analysis of Impacts

Dr. Kope presented Agenda Item H.7.b, Supplemental STT Report.

H.7.c Reports and Comments of Management Entities and Advisory Bodies

Mr. Sones noted Agenda Item H.7.c, Supplemental Hoopa Valley Tribe Report was provided for Council consideration.

Mr. Sones presented Agenda Item H.7.c, Supplemental Tribal Report.

H.7.d Public Comment

None.

H.7.e Council Action: Adopt Final Management Measures for 2009 Ocean Salmon Fisheries

Mr. Ortmann asked if the Council needed to address the emergency rule requirements in Attachments 1 and 2. Mr. Tracy replied that unless a stock was projected to not meet the conservation objectives and terms of the salmon fishery management plan, the emergency rules requirements need not be addressed.

Mr. Anderson requested a review of the revised Council meeting schedule, which strained the North of Falcon process, before adopting a similar approach for 2010. Dr. McIsaac agreed.

Mr. Anderson moved (Motion 22) to adopt non-Indian commercial and recreational ocean salmon management measures for the area between the U.S./Canada border and Cape Falcon as presented in Agenda Item H.7.b with the following corrections:

- Page 5, Cape Alava to Queets River (La Push subarea): change September 18 to September 20; change September 19 to September 26, and; change October 4 to October 11.

Mr. Myer seconded the motion.

Mr. Anderson noted that the Thompson coho exploitation rate of 10.2 percent indicated in Table 5 of Agenda Item H.7.b, Supplemental STT Report, was reduced to 9.8 percent, which complied with the PSC coho agreement, as a result of further shaping of inside fisheries.

Mr. Lockhart asked if all of the Puget Sound Chinook stocks also met relevant conservation objectives and ESA consultation standards. Mr. Anderson replied the only outstanding stocks were Skokomish and Green River Chinook, which would also achieve relevant standards as a result of shaping inside fisheries.

Motion 22 passed unanimously.

Mr. Williams moved (Motion 23) to adopt non-Indian commercial and recreational ocean salmon management measures for the area between the Cape Falcon and the Oregon/California border as presented in Agenda Item H.7.b.

Mr. Warrens seconded the motion; Motion 23 passed unanimously.

Mr. Sones moved (Motion 24) to adopt treaty Indian commercial ocean salmon management measures as presented in Agenda Item H.7.e, Supplemental Treaty Indian Ocean Troll Motion.

Mr. Cedergreen seconded the motion; Motion 24 passed unanimously.

Ms. Vojkovich moved (Motion 25) to adopt non-Indian commercial and recreational ocean salmon management measures for the area between the Oregon/California border and the U.S./Mexico border as presented in Agenda Item H.7.b.

Mr. Wolford seconded the motion; Motion 25 passed unanimously.

Mr. Lockhart noted that modeling confirmation of impacts for Puget Sound stocks would be required prior to Secretarial approval.

Ms. Cooney confirmed that the emergency rules requirements were not necessary to implement the adopted management measures.

I. Pacific Halibut Management

I.1 Incidental 2009 Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries

I.1.a Agenda Item Overview (04/06/09; 2:49 p.m.)

Mr. Tracy presented the agenda item overview.

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

Mr. Paul Heikkila presented Agenda Item I.1.b, Supplemental SAS Report.

Deputy Chief Mike Cenci presented Agenda Item I.1.b, Supplemental EC Report.

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

I.1.c Public Comment

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

I.1.d Council Action: Adopt Final Annual Incidental Halibut Harvest Restrictions

Ms. Culver stated that increasing the salmon troll halibut landing restriction risked increasing impacts on overfished yelloweye rockfish, which was in the third year of a ramp down process; therefore she recommended retaining the status quo regulations for that fishery.

Ms. Culver moved (Motion 12) to adopt incidental halibut landing restrictions for the salmon troll fishery as follows:

Beginning May 1, license holders may possess or land no more than one halibut per each two Chinook, except one halibut may be possessed or landed without meeting the ratio requirement and no more than 35 halibut may be possessed or landed per open period. Halibut retained must be no less than 32 inches in total length with head on.

And to adopt incidental halibut landing restrictions in the 2009 fixed gear primary sablefish fishery north of Point Chehalis as follows:

Beginning May 1, restrict incidental halibut landings to 100 pounds dressed weight of halibut per trip.

Mr. Myer seconded the motion; Motion 12 passed unanimously.

Mr. Tracy asked if the Council intended to continue with the “C-shaped” yelloweye rockfish conservation area as an area to be avoided by salmon trollers on a voluntary basis to provide protection of yelloweye rockfish. Ms. Culver replied yes.

ADJOURN

The 198th Council meeting was adjourned at 3:38 p.m. on Thursday, April 9, 2009.



November 5, 2009

Council Chairman

Date