

# MINUTES

## Pacific Fishery Management Council

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June 9-15, 2007

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## **A. Call to Order**

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

Mr. Don Hansen, Chair, called the 189<sup>th</sup> meeting of the Pacific Fishery Management Council to order on Monday, June 11, 2007 at 3 pm. A closed session was held from 1 pm to 2 pm to discuss personnel matters and status of litigation.

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

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

Mr. Mark Cedergreen (Washington Obligatory)  
Ms. Michele Culver (Washington State Official)  
Ms. Kathy Fosmark (California Obligatory)  
Mr. Donald Hansen, Chairman (At-Large)  
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non voting)  
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region)  
Mr. Jerry Mallet (State of Idaho Official)  
CDR Peter Martin (US Coast Guard, non-voting)  
Mr. Curt Melcher (State of Oregon Official)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At- Large)  
Mr. Dave Ortmann, Vice Chairman (Idaho Obligatory)  
Mr. Tim Roth (US Fish and Wildlife Service, non voting)  
Mr. David Sones (Tribal Obligatory)  
Mr. Roger Thomas (At-Large)  
Ms. Marija Vojkovich (State of California Official)  
Mr. Frank Warrens (Oregon Obligatory)

The following Council members were absent on Monday and Tuesday of the meeting:

Mr. Phil Anderson (Washington State Official). Please note Ms. Michele Culver, Washington State Official designee was present in Mr. Anderson's absence. Dr. Dave Hanson, PSMFC.

The following Council members were absent from the entire meeting:

Mr. David Hogan (US State Department, non voting)  
Mr. Gordy Williams (State of Alaska Official)

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

Dr. Don McIsaac made a few brief remarks on the week's agenda and explained the information reports in the Briefing Book. He then introduced Mr. Merrick Burden and Ms. Heather Brandon as new Council staff members. Mr. Melcher and Dr. McIsaac made some comments honoring the memory of Mr. Scott Boley; Mr. Melcher noted that Mr. Boley wrote the original KOHM. The Council held a moment of silence. Mr. Boley's public memorial service will be held July 3.

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

The Council approved the agenda as shown in Agenda Item A.4, Council Meeting Agenda, with the cancellation of the legislative item (Motion 1).

### **B. Administrative Matters**

#### **B.1 Future Council Meeting Agenda Planning (06/11/07; 3:17 pm)**

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

Dr. McIsaac provided the agenda item overview.

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

None.

##### **B.1.c Public Comment**

Dr. John Coon summarized the public comment received from Mr. Chuck Janisse (Agenda Item B.1.c, Public Comment) regarding scheduling of an exempted fishing permit (EFP) review for a long-line fishery for highly migratory species (HMS).

The following group asked for consideration of sector bycatch allocations for the Pacific whiting fishery to be put on the Council agenda as soon as possible (September) to allow implementation in 2008: Messrs. Tom Libby, Dan Waldeck, and Mike Okoniewski.

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

Ms. Culver spoke about Mr. Janisse' EFP comments and suggested that having a preliminary report of the first year activities available in March 2008, while potentially deviating from the current schedule, would work to allow review for the 2008 request. Mr. Helvey agreed.

Ms. Vojkovich, regarding the three-meeting outlook, asked what was meant by including the high seas longline consideration as an agenda item under HMS in September? Dr. Coon replied it was part of the original FMP that the Council would consider a limited entry high seas longline fishery and this proposed agenda item follows up on that.

Mr. Rod Moore requested Council staff look at having something on the September agenda for consideration of sector bycatch allocations for the Pacific whiting fishery. This would be the first part of a two-meeting process. One sector or another has had a problem with bycatch in the past several years and this would be a way to get out of some potential problems.

Mr. Lockhart, in consultation with NOAA Fisheries GC, thought it was possible to achieve the bycatch allocation in a two-meeting process; but he is not exactly sure what this would entail and will bring that information forward on Friday.

Mr. Dale Myer proposed that if the Council goes forward with this, he encouraged the Council to broaden the consideration to include variations in the starting date of May 15 which may be a big part of the

problem. Mr. Moore said, given the Council's workload, we would not have time to do both an allocation and modification to the start date time in time for the 2008 season. He didn't care what the Council chose, just something needs to be done.

Mr. Lockhart said he would speak to the proposed agenda item in more detail during the Groundfish agenda item for Pacific whiting. He noted the region has a new regulatory process that they have to follow and he would have to talk with NOAA Fisheries GC about it.

Ms. Fosmark asked to add discussion for the drift gillnet EFP since it was denied by NMFS, after being voted in favor of twice by this Council.

## **B.2 Council Operating Procedure (COP) for Providing Highly Migratory Species Management Recommendations to Regional Fishery Management Organizations**

### **B.2.a Agenda Item Overview (06/11/07; 3:38 pm)**

Dr. Kit Dahl provided the agenda item overview. He pointed out some of the scheduling conflicts between Council and RFMO meetings that the Council might want to consider in any further revisions to the COP. Dr. McIsaac discussed the draft memorandum of understanding (MOU) that was presented at the April 2007 Council meeting and the schedule for further negotiations.

### **B.2.b Reports and Comments of Advisory Bodies**

None.

### **B.2.c Public Comment**

None.

### **B.2.d Council Action: Adopt Final COP**

Ms. Culver, referencing language in the COP (Agenda Item B.2.a, Attachment 1, pages 2 and 3) which states the HMSMT will solicit input from the WPFMC's Pelagics Plan Team, said she would be more comfortable if the language emphasized coordination and communication without requiring input from the Pelagics Team. Mr. Melcher followed up, recommending that the language state the HMSMT "will confer" with the Pelagics Team.

Mr. Helvey reviewed some suggested changes that had been given to staff for incorporation. Principally, this was to change the discussion of recommendations to the IATTC to emphasize that the NMFS SWR Regional Administrator has traditionally been one of the Commissioners.

Mr. Moore moved (Motion 2) and Mr. Warrens seconded that the Council approve the draft COP (HMS Recommendations to Regional Fishery Management Organizations) as shown in Agenda Item B.2.a, Attachment 1, with the following changes: page 2—first paragraph for recommendations to IATTC—strike "will solicit input from" and insert "will confer with the WPFMC's Pelagic team"; page 4—final paragraph—strike "commercial troll fishery for North Pacific albacore tuna" and insert "West Coast commercial fisheries for HMS species."

Ms. Vojkovich asked if this change to the COP would affect the proposed designation of seats in the MOU, in terms of an equal division of seats between representatives from the PFMC and the WPFMC.

Mr. Moore pointed out that the COP language does not speak to the number of seats, which would be covered in the MOU, so there would not be a conflict.

Mr. Melcher noted that the “will solicit input from the WPFMC’s Pelagics Plan Team” language also appears on page 3 and made the friendly amendment to include the “will confer with” language there also. Both the maker and seconder agreed.

Mr. Helvey offered a friendly amendment to revise language on page 2, second paragraph under Recommendation to the IATTC, consistent with revisions provided to staff, which would add language noting that the NMFS SWR Regional Administrator serves as an IATTC Commissioner. Also in the following paragraph his amendment changes the language “inviting the U.S. Commissioners to the June Council meeting” to “forwarding to the U.S. Section through the NMFS SWR Regional Administrator, who usually serves as a Commissioner to the IATTC.” He said this change clarifies the Regional Administrator’s role. Maker and seconder agreed.

Mr. Moore added that the motion includes allowing Council staff to make editorial amendments/changes. Motion 2 passed.

Dr. Dahl said there is the second action item of providing further direction on the MOU. Dr. McIsaac said a motion was passed in April, and asked if the Council had any other suggestions to offer.

Ms. Vojkovich asked if there is a need to consider a recreational angling seat, recognizing that the WCPFC deals mainly with commercial fisheries. Dr. McIsaac said designation of such a seat simply recognizes the recreational albacore fishery on the West Coast and the possibility that in the future some recreational fishery management measures at the WCPFC may be necessary.

### **B.3 Recreational Fishery Information Network Data and Sampling Refinements**

#### **B.3.a Agenda Item Overview (06/13/07; 8:10 am)**

Mr. John DeVore provided the agenda item overview.

#### **B.3.b Pacific States Marine Fisheries Commission Report**

Mr. Russell Porter provided a PowerPoint presentation, available on the Council’s website at: [http://www.pcouncil.org/bb/2007/0607/B3b\\_RecFINPPT\\_Sup.pdf](http://www.pcouncil.org/bb/2007/0607/B3b_RecFINPPT_Sup.pdf)

Ms. Vojkovich asked if the RecFIN proposal is to apply mortality rates for every species in the RecFIN database, not just groundfish and Mr. Porter said that was correct. If a mortality rate is not available for a given species then RecFIN staff may need to develop one. Mr. Thomas noted in the case of salmon, various mortality rates are used depending on the fishing strategy (i.e., mooching vs. trolling). Mr. Porter said that PSMFC uses the mortality rates used in the Council process. However, the states tend to manage recreational salmon catch outside the RecFIN system.

Mr. Anderson asked for an explanation of pooling rules and recommendations for improvement. Mr. Porter said Appendix B in the PSMFC Report depicts the pooling rules currently used. Improvements have been discussed and pooling rules are likely to change based on those deliberations. Mr. Anderson asked if it is expected the states will seek improvements of pooling rules through RecFIN committees and Mr. Porter said yes, unless Council advisory bodies have recommendations through this process.

Dr. McIsaac asked for an explanation of the current state of groundfish final catch estimates. Mr. Porter said the goal is to have catch estimates with a one-month delay. The states sign off on these estimates at the end of the year. CRFS estimates are still in flux and improvements in catch estimation methodologies are being considered now. For instance, reducing the number of trip types in the CRFS estimates are expected to produce more robust estimates. CDFG and PSMFC have agreed to reduce the number of trip types from 17 to 7. Revised California recreational catch estimates for 2004 and 2005 are expected by the end of the year and 2006 catch estimates should be available soon.

Mr. Melcher asked if we take action on item 3 (managing recreational catches by numbers of fish), does item 2 (average weight procedures) become moot? Mr. Porter replied no. If we manage recreational fisheries by numbers of fish, we still need to work on pooling rules for determining average weights. Weights are needed for stock assessment and that data will still be collected and available for assessment.

Mr. Anderson noted action item 2 is attempting to align our management with the same average weights used in assessment. He agreed we need to get away from inseason changes to average weight, which causes instability. He thought the goal should be to establish a policy where average weights are adjusted only when an assessment is updated. Mr. Porter agreed this is a reasonable goal. Mr. Anderson asked if those average weights used to manage the recreational catch during a management cycle would be used to estimate annual total catch and Mr. Porter said that was part of the recommendation.

Ms. Vojkovich asked if the Council and Council advisory body recommendations will be considered in the development of the new MRFSS system, which will now be called the Marine Recreational Information Report and Mr. Porter replied there are few re-development issues concerning the Pacific Council.

Dr. McIsaac asked, now that the side-by-side CRFS and MRFSS estimate assessment will not produce a calibration between MRFSS and CRFS, will the historical MRFSS estimates now stand as the best estimates? Mr. Porter replied yes, unless there is bias determined in the MRFSS system at the national level. However, there may be some annual or wave estimates flagged that are not considered in line with other information. Dr. McIsaac asked if there will be continued funding for CRFS phone surveys since MRFSS has been discontinued Mr. Porter said they still expect to receive NMFS funding for CRFS phone surveys. The current level of NMFS funding is ~\$2.2M. The states fund RecFIN to cover about 2/3 of the annual budget. PSMFC needs greater NMFS funding support to set up an annual angler registry and fill sampling shortfalls. Mr. Hansen explained this is an MSA mandate and Mr. Porter added this will cost about \$30M nationally.

Mr. Helvey noted the SSC presented a data needs analysis for the RecFIN workshop last August. The SSC expressed a need for data access. Has anything been done to address those data access needs? Mr. Porter replied we have catch, effort, and biological data housed in RecFIN. We are working with the states to provide all the sample data from the three states that are needed for assessment. These data are confidential, but accessible to assessment scientists. Mr. Helvey asked if there will be economic data made available and Mr. Porter replied that is our intent. We are working with technical teams to provide these data in a useful format.

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

#### HMSMT Report

Mr. DeVore read the HMSMT Report. Dr. Kit Dahl was called to the podium to field questions.

Mr. Mark Helvey said he was concerned about the HMSMT recommendation for producing a tonnage table on RecFIN for sharks. Should we not proceed cautiously producing that table given shark total catch uncertainty? Dr. Dahl said that was discussed by the HMSMT and they agree that catch resolution is needed before catch tables are produced and distributed. There is no particular timeline recommended by the HMSMT for producing these tables. Mr. Hansen said those tournaments are high profile and catches from those tournaments should be easily attained. However, shark tournaments may be ill-advised and this may be an issue for Council consideration in the future. Dr. Dahl said the HMSMT will grapple with that issue.

### SSC Report

Dr. Robert Conrad provided Agenda Item B.3.c, Supplemental SSC Report 2.

Ms. Vojkovich noted the SSC refers to information needed on the RecFIN web site and asked if they were referring to data for the public or confidential data for assessment scientists and other analysts. Dr. Conrad said it was the latter.

Ms. Vojkovich asked if the SSC was proposing who should determine the best available recreational data and Mr. Conrad said no, a decision needs to be made who resolves which data are the best available. Ms. Vojkovich asked if that statement spoke to the respective roles of the SSC and the RecFIN Technical Committee and Mr. Conrad said yes.

Dr. McIsaac asked if the SSC explored whether different states and RecFIN are using different methodologies for determining recreational catches and Mr. Conrad said nothing has been brought to the SSC for review.

Mr. Melcher noted the SSC statement that managing recreational catch by numbers will not affect assessments and asked if the SSC supports that change. Mr. Conrad said the SSC does support managing recreational catches by numbers.

Ms. Vojkovich noted the three PSMFC proposals to refine RecFIN seem simple, but at least one of them, discard mortality rates, has multiple steps and decisions. Did the SSC discuss discard mortality rates in detail? Mr. Conrad said no, the SSC focused on the overarching issues brought forward during the RecFIN workshop last August.

Mr. Helvey asked if there was discussion regarding the interaction of the SSC and the RecFIN Technical Committee. Mr. Conrad said he was not sure if a formal process is needed for regular interactions, but the SSC can be used to resolve outstanding issues.

### GMT Report

Mr. Brian Culver provided Agenda Item B.3.c, Supplemental GMT Report.

Ms. Vojkovich asked, relative to discard mortality rates, does the GMT have a recommendation on how to establish mortality rates for lesser encountered species and Mr. Culver explained the GMT intends to do a literature survey, use life history and physiology characteristics of species, and may rely on professional judgment to develop mortality rates. As new information is developed, those rates may change.

Mr. Melcher asked what issues are outstanding in considering recreational catch management by numbers and Mr. Culver said we need to look at how total catch is accounted when recreational catches are managed by numbers and commercial catches by weight. The GMT also needs to decide how to regionally stratify average weights when converting catch in numbers back to weight to compare total mortalities to specified OYs.

Dr. McIsaac noted the SSC alludes to differential catch reporting by states and RecFIN as does the GMT. Beside differential pooling rules and discard mortality rates, what other differential methods account for these differences? Mr. Culver said the states and RecFIN are coming closer together. However, we still need to resolve competing historical catch streams and have a standard used in assessment and management.

### GAP Report

Mr. Mike Hansen provided Agenda Item B.3.c, Supplemental GAP Report. Mr. Jim Martin was on hand to help answer questions.

#### **B.3.d Public Comment**

Mr. Dan Wolford, Coastside Fishing Club, CA.

#### **B.3.e Council Action: Provide Recommendations for Making Appropriate Refinements**

Mr. Anderson said there are four issues raised by RecFIN staff and Council advisors. Discard rate procedures seemed a simple decision, but there are more subtle complications. He agrees with a standardized process and continued discussions are needed to resolve this issue. Average weight computation and pooling rules are issues he thought could be resolved today. Managing recreational catches by numbers needs further deliberation to resolve. Managing to harvest guidelines that are specified by weight can use a standardized average weight, but he doesn't see the advantage of managing recreational catch by numbers. Resolving historical catch estimates should be further discussed by the SSC, GMT, and others. He said there is certainly a need for standardized estimates for management and assessment. He endorsed the concept of average weight pooling rules and using the same average weights through a management cycle. Stock assessments use a standard average weight, which needs to be used in management.

Ms. Vojkovich said she agrees with those comments. Reconciling MRFSS vs. state estimates needs to be decided once and for all. The SSC should take the lead with input from the RecFIN Technical Committee. The GMT may not have the expertise to resolve this. The discard issue has several component issues. She supports standardized reporting methodologies. She does not want to lose finer scale data elements in the CRFS sampling database recorded in RecFIN. The GMT should work on standardized discard mortality rates and not ask RecFIN to determine these rates now. She supports documentation of data collection methodologies as recommended by the SSC. The need still exists for using the best data. The SSC and HMSMT recommend a revamping of the RecFIN web site. Can end-of-year NMFS funds be used to hire a web site designer? This needs attention since there is a need to fill catch sampling data gaps (i.e., private sites, night time catches, etc.).

Mr. Melcher asked if CDFG supported the proposal to have discards going into a single category. What data elements do you not want to lose? Ms. Vojkovich said she supports a standard reporting format, but wants the multiple discard disposition codes recorded in the database.

Ms. Fosmark said the HMSMT recommendation to include HMS data sampling and reporting needs to be addressed.

Mr. Anderson noted there has been Council guidance with no objections to his initial observations. The only specific motion he thought we would need would be one for the average weight computation. To that end, Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 6) that the Council endorse a standard average weight computation methodology, with state-specific pooling rules, that result in an average weight that would be used on an annual or biennial basis in recreational catch management.

Mr. Warrens asked if the motion included criteria for determining regional differences in determining average weights and Mr. Anderson said yes.

Motion 6 passed on a voice vote.

Mr. DeVore said the SSC wanted guidance on the respective oversight roles of the SSC and the RecFIN Technical Committee. Dr. McIsaac asked if there was also Council guidance on how to resolve competing historical catch estimates and Mr. Anderson thought the best approach would be to assign the SSC the task of evaluating historical catch estimates and give them authority to consult with RecFIN and other entities to resolve these estimates. Ms. Vojkovich thought the SSC should contact the RecFIN Technical Committee to establish a process for cross communication to keep SSC issues and needs alive and on the RecFIN radar. Mr. Anderson agreed with that intent, but didn't like the procedure. The SSC is advisory to the Council and therefore needs to go through the Council. The SSC should identify concerns to the Council and the Council should then direct the SSC on how they should resolve those issues. Ms. Vojkovich said she was fine with that guidance.

Mr. Melcher said he would like the issue of managing recreational catches by numbers to be studied more for a later resolution. Mr. Anderson said he would like to task the GMT with this. Mr. DeVore said this has been identified as a potential 2009-2010 specifications and management measures' issue. Ms. Vojkovich said the HMSMT also needs to work on this issue for HMS species. Mr. Anderson concurred.

#### **B.4 COP for Reviewing Proposed Changes to Groundfish Essential Fish Habitat (EFH) and Establishing a Groundfish EFH Oversight Committee**

##### **B.4.a Agenda Item Overview (06/13/07; 10:41 am)**

Dr. John Coon provided the agenda item overview.

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

Mr. John Holloway provided Agenda Item B.4.b, Supplemental GAP Report. Mr. Tim Roth provided Agenda Item B.4.b, Supplemental HC Report, and Mr. Tony Warrington provided Agenda Item B.4.b, Supplemental EC Report.

##### **B.4.c Public Comment**

None.

#### **B.4.d Council Action: Adopt a Final COP**

Mr. Warrens moved and Mr. Jerry Mallet seconded a motion (Motion 7) to adopt a final COP for the Groundfish Essential Fish Habitat Oversight Committee as shown in Agenda Item B.4.a, Attachment 1 with the following modifications: include the changes suggested by the HC to delete reference to EFH in the first sentence under “Short-Term EFH Reviews” on page 4; and include an enforcement consultant representative under the “General” subsection under “Composition” on page 2.

Mr. Anderson expressed concern that while the committee membership could change with different EFH proposals, there should be some consistency and that could be a consideration by the Chair when we make appointments.

Mr. Roth was supportive of the motion with some arrangement to have a level of stability for at least a few of the committee members. Dr. Coon stated he believes the original committee was 8 people. He was afraid to have too many static positions which could end up with folks who don't fit the issues under review and the potential of the committee to get larger comes into play.

To address Council member concerns over having some consistency in representatives on the ad hoc review committee, Dr. Coon suggested the COP would state that when selecting ad hoc committee members, the Chairman would consider the need for maintaining some consistency from ad hoc committee to ad hoc committee. Mr. Anderson, suggested that adding the language that the Chair would consider consistency in establishing ad hoc committees could be a friendly amendment. Both maker and seconder of the motion agreed. Motion 7 passed.

Dr. Coon said there may be some more discussion on when the committee will meet during Agenda Item B.10.

#### **B.5 Magnuson-Stevens Act Reauthorization Implementation**

Dr. McIsaac noted this item was postponed until the September meeting due to time constraints and no action was deemed necessary. However, there was an SSC statement provided.

#### **B.6 Legislative Matters**

This agenda item was cancelled.

#### **B.7 Fiscal Matters**

##### **B.7.a Agenda Item Overview (06/15/07; 12:30 pm)**

Dr. Coon provided the agenda item overview.

##### **B.7.b Budget Committee Report**

Mr. Jerry Mallet provided Agenda Item B.7.b, Supplemental Budget Committee Report.

##### **B.7.c Reports and Comments of Advisory Bodies**

None.

**B.7.d Public Comment**

None.

**B.7.e Council Action: Consider Budget Committee Recommendations**

Mr. Thomas moved and Ms. Vojkovich seconded a motion (Motion 18) to approve the report of the BC as shown in Agenda Item B.7.b, Supplemental Budget Committee Report, including adoption of the two recommendations on page 2 of that report (the 2007 operational base budget proposed by Dr. McIsaac of \$3,255,454; and a carry over of savings from the 2006 budget year to protect the operational continuity and capacity of the Council in 2008). Motion 18 passed.

**B.8 Appointment to Advisory Bodies, Standing Committees, and Other Forums, and Changes to COP as Needed**

**B.8.a Agenda Item Overview (06/15/07; 12:34 pm)**

Dr. Coon provided the agenda item overview.

**B.8.b Reports and Comments of Advisory Bodies**

None.

**B.8.c Public Comment**

None.

**B.8.d Council Action: Consider Changes to COP and Appoint New Advisory Body Members as Needed**

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 19) to appoint Ms. Leeanne Laughlin to replace Mr. Steve Wertz on the HMSMT and Ms. Briana Brady to replace Ms. Laughlin on the CPSMT. Motion 19 passed.

Chairman Hansen recommended the Council task Dr. McIsaac with transmitting a recommendation to the Secretary of Commerce to appoint Mr. Phil Anderson to the Council representative seat on the U.S.-Canada Pacific Whiting Commission. The Council agreed.

Chairman Hansen appointed Mr. Bruce Buckmaster as the Community Representative on the Ad Hoc Groundfish Trawl Individual Quota Committee.

Dr. Coon noted that since Dr. Lyman McDonald has notified the Council of his intent to resign from an at-large position on the SSC, the Council staff will advertise to fill the vacancy so a new member may be selected at the September meeting.

## **B.9 Approval of Council Meeting Minutes**

### **B.9.a Council Member Review and Comments**

See B.9.b, Council Action.

### **B.9.b Council Action: Approve Council Meeting Minutes**

Mr. Thomas moved and Mr. Melcher seconded a motion (Motion 20) to approve the November, March, and April minutes as shown in Agenda Item B.9, Draft November 2006 Council Meeting Minutes; Agenda Item B.9, Draft March 2007 Minutes; and Agenda Item B.9, Draft April 2007 Minutes.

Mr. Rod Moore asked for a friendly amendment to make the following change to the March 2007 Minutes. On page 20, the phrase “Mr. Moore said he intended to vote against the main motion, not out of disrespect, but because of his strong belief the whiting resource is in better shape,” should read “Mr. Moore said he intended to vote against the main motion because of his strong belief the whiting resource is in better shape.”

Mr. Moore also asked for a friendly amendment to make the following change to the April 2007 Minutes regarding Motion 10 on page 22. The portion that says “Mr. Moore moved and Mr. Melcher seconded a motion (Motion 10) to adopt a preliminary range of alternatives for Amendment 15 to the Pacific Groundfish FMP as follows. . .”; should read “Mr. Melcher moved and Mr. Moore seconded a motion (Motion 10) to adopt a preliminary range of alternatives for Amendment 15 to the Pacific Groundfish FMP as follows. . .”.

Both the maker and seconder approved the friendly amendment. Motion 20 passed as amended by the friendly amendment.

## **B.10 Council Three-Meeting Outlook, September 2007 Council Meeting Agenda, and Workload Priorities**

### **B.10.a Agenda Item Overview**

Dr. McIsaac provided the agenda item overview. He started with the September agenda and stated that it was similar to what the Council had seen on Monday with the following changes: (1) a potential agenda item for the first of a two meeting process for considering sector bycatch allocation and modifying the start date for the Pacific whiting fishery, (2) a potential agenda item for considering changes to bottom closures in groundfish essential fish habitat, (3) reconsideration of the drift gill net EFP, and (4) postponing open access limitation in line with the schedule proposed at this meeting. Dr. McIsaac also noted that due to the extremely overcrowded November agenda (175% of normal in the three meeting outlook), Attachment 4 contains a proposed November agenda which may require the Council to consider extending the meeting to Saturday. He walked the Council through a detailed description of the November agenda.

### **B.10.b Reports and Comments of Advisory Bodies**

Mr. Tim Roth provided Agenda Item B.10.b, Supplemental HC Report. Mr. Tommy Ancona provided Agenda Item B.10.b, Supplemental GAP Report.

### **B.10.c Public Comment**

Mr. Allen Kimball, Trident Seafoods, Seattle, WA  
Mr. Mike Oknoniewski, Pacific Seafood, Woodland, WA  
Mr. Mike Hyde, American Seafoods, Seattle, WA  
Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR

The public listed above all spoke to a request that the Council initiate work on establishing sector bycatch allocations for the Pacific Whiting fishery in 2008 and beyond.

### **B.10.d Council Guidance on Three Meeting Outlook, September 2007 Council Agenda, Council Staff Workload, and Priorities for Advisory Body Consideration**

Council members had an extensive discussion of the proposal to begin work on sector bycatch allocation in the whiting fishery. However, the Council chose not to begin this two meeting agenda item in September in view of other priorities (e.g., trawl rationalization, intersector allocation, open access limitation, etc.) that totally utilize available staffing, the lack of agenda time in November, and advice that a final recommendation in March would likely not be timely for 2008 implementation. The Council agreed this issue could be raised again at a future Council meeting during the regular agenda planning items. Council members also did not see a need to add the proposal to consider changes to groundfish bottom closures to the September agenda.

The Council's discussion of the whiting sector bycatch allocation also included consideration of using private source funding to help accomplish the process of sector bycatch allocation. It was concluded that this would not be a good idea and could set a bad precedent. Mr. Dave Hanson reported that the North Pacific Council has dealt with this issue and has a policy against using private funds to support work necessary to implement Council actions.

Council members provided further thoughts with regard to the September 2007 Council agenda, staff workload and priorities for advisory body consideration, and guidance on the November 2007 agenda. The discussion included concern about the HMS EFP schedule and the process of getting Council comments to the Western and Central Pacific Fisheries Commission. With regard to the November meeting, Council members made several suggestions for adjusting the agenda items, including a need to have open access on the November agenda and favoring an earlier start on Monday, if possible. Council members were not in favor of extending the November Council meeting into Saturday and Dr. McIsaac stated he would not ask for hotel space for Saturday.

Chairman Hansen and the Council recognized Mr. Roger Thomas for his years of service as a Council member in serving three consecutive terms.

## **C. Open Public Comment**

### **C.1 Comments on Non-Agenda Items**

#### **C.1.a Public Comment**

Mr. Dave Ortmann chaired this agenda item.

Mr. William Daspit, Seattle, Washington. He spoke to estimation procedures for discards with regard to assessing overfishing and computation of discard rates and how the methods are done by only one employee. He believes there needs to be another review of the statistical method since January 2003 and suggested that a team of scientists should review the method in the same fashion as STAR panels. This would involve allowing the reviewers to have access to the confidential discard data.

#### **C.1.b Council Discussion of Non-Agenda Items Comments as Appropriate**

None.

### **D. Habitat**

#### **D.1 Current Habitat Issues (06/12/07; 8:11 am)**

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

Ms. Jennifer Gilden provided the Agenda Item overview. Mr. Stuart Ellis, HC Chair, provided Agenda Item D.1.a, Supplemental HC Report.

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

None.

##### **D.1.c Public Comment**

None.

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

Mr. Melcher asked about wave energy projects in Washington and California. Did the HC discuss those projects? Mr. Ellis said the HC mainly focused on Oregon due to the question of who permits the process in Oregon; there is also a project underway in Makah Bay, and applications for tidal energy projects in Puget Sound. The Makah Bay proposal has not been on a fast track, and is quite small. There are also proposals in California, but the HC was not aware of the details. Mr. Melcher also asked who would promulgate regulations to close these areas to all entry. Mr. Feder said he wasn't sure. Mr. Ellis explained broadly how wave energy buoys work, how they are attached to the sea floor, and the fact that project areas would need to be closed for safety reasons. He guessed that the closure might be done by the Coast Guard. Another Council member asked about the spacing of buoys. Mr. Ellis said they would be spaced fairly close together. Mr. Moore said that wave facilities might be put in salmon EFH, and that the Council would be required to comment if this were the case. He asked if the HC had suggestions for following comment requirements. Mr. Ellis said this was a conundrum and one reason for bringing it to the Council's attention. The HC is uncertain of the effects of these projects on fish species and habitat, and is also puzzled about how and when to comment on EFH issues.

Mr. Cedergreen asked about the effects of electromagnetic radiation. Mr. Ellis said that this is one issue to be analyzed. He discussed mitigation measures and their possible effects.

Ms. Culver said that most of the projects have been proposed in state waters, and because of that, most of the fisheries affected (in Washington) were state-permitted fisheries. She wondered about ODFW's

stance on this. Mr. Ellis said that the Washington project has been going on for a long time and that ODFW has not had the time to comment yet.

Mr. Ortmann asked about FERC's use of a "settlement agreement" with one of the wave energy projects. Mr. Ellis said it's just one process under FERC that gives the applicants a different set of rules for applying. He said it requires entities who want to be interested parties (primarily NGOs) to declare early that they want to be involved. It wouldn't necessarily affect the Council's role as far as commenting on EFH. Mr. Ortmann observed that maintenance will have to take place with these facilities and that there was potential for further impacts.

A Council member asked if there was an EIS process associated with these projects. He noted that raising the money to do an EIS was a stumbling block for some companies. The NEPA process would provide opportunities for comment. Mr. Ellis said he thought the projects would have to go through the NEPA process, but it was confusing. The expedited permit process allows some buoys to go in before the full NEPA process is complete, as a test of their effects. It was unclear how this worked.

Dr. McIsaac said that when FERC licenses dams on land, they typically have a no-trespassing area around the project; is the HC aware of any additional radius around the projects that have been proposed? Mr. Ellis said the HC was unaware of any security zone requirements. However, the applicants may not have determined how large an area they would need to close. Dr. McIsaac also asked, regarding the "lessons learned" document resulting from the MLPA, if the HC had discussed any interface with the Council process. Mr. Ellis said the HC had not discussed that, but was more focused on the stakeholder process within the MLPA itself. Dr. McIsaac asked if displacement of fishing effort had come up in the "lessons learned" document. Mr. Ellis said the HC did not discuss that, but he would look into it.

Mr. Helvey asked if the HC had talked about how to keep track of wave energy proposals between Council meetings. Mr. Ellis said that individual HC members would track this for their states and agencies and would keep the HC informed by email.

Mr. Ortmann asked if the HC discussed Columbia River salmon fish spills. Mr. Ellis said the HC discussed this briefly. He said there is an increasing body of data demonstrating that proper spill and flow for these fish is helping generate good survival. For example, we now have the second highest ever return of spring and summer Chinook jacks (primarily Snake River). We had good natural runoff and a court-ordered spill last year when these migrated to the ocean. We hope to look more into this in September. Mr. Ortmann said he would appreciate the HC keeping this on the agenda.

Mr. Warrens said that OPAC has an active working group on wave energy; also he has heard that applicants are working closely with the Oregon Salmon & Oregon Crab Commissions. There is a lot of activity in the OPAC process. These wave parks are primarily sited within state waters in Oregon; not sure if any straddle the EEZ.

## **E. Groundfish Management**

### **E.1 National Marine Fisheries Service (NMFS) Report on Groundfish Management**

#### **E.1.a Regulatory Activities (06/12/07; 8:43 am)**

Mr. Frank Lockhart spoke to the status of implementing the U.S.-Canada whiting treaty. About 10 days ago they heard the Canadian government has a new process for ratifying treaties. All treaties have to sit

in front of the parliament for 21 days for review and comment. If any comments are received that are negative or opposed to the treaty, they have to be discussed on an “opposition day”. He thinks the next one that is scheduled is in November. If there is Canadian opposition to the whiting treaty, then it is very unlikely the whiting treaty will be in force for the 2008 season. The two state departments are having a conference call on Monday and Mr. Lockhart said he will be able to provide an update at the next Council meeting. This came up at the last second, and just prior to release of the Federal Register notice on the whiting advisory panel (the state department asked for a delay in publishing the FR notice).

He then briefed the Council on the following documents: Agenda Item E.1.a, Attachment 1: FR Notices from the Northwest Region (03/14/07-05/30/07); Agenda Item E.1.a, Attachment 2: NMFS Report on New NEPA Processes; Agenda Item E.1.a, Attachment 3: FR Notice, Temporary Rule (Pacific Whiting Fishery); and Agenda Item E.1.a, Attachment 4: NMFS Report on Vessel Ownership Interest in the LE Fleet for Vessels Registered with Sablefish Endorsements.

A new internal NEPA process has been decided by NMFS, as described in Agenda Item E.1.a, Attachment 2, where most of the early scoping for a NEPA document is done by the Northwest Region (NWR). They have implemented this new process by doing the early scoping on the open access process (Amendment 22) and Amendment 15. This is a new process, where much of the authority for scoping and coordinating the NEPA process has been given to the regions, at least for EAs; it is uncertain how much authority regions will have on EISs. The NWR will continue to coordinate these processes closely with the Council to find the best way to implement this new NMFS NEPA policy.

Mr. Moore asked if Mr. Lockhart could send an email to Council members stating the results of Monday’s conference call and Mr. Lockhart said he would.

Ms. Culver asked if there were a set of key questions or criteria that NMFS staff uses during early scoping of a NEPA action. Mr. Lockhart said the key questions are outlined in bullet points in Agenda Item E.1.a, Attachment 2. These questions follow the NEPA rules which require determination of the significance of projected impacts from a contemplated federal action on key resources (i.e., biological, socioeconomic, and physical habitats). Ms. Culver asked how the need for an EIS vs. an EA is decided. Are projected impacts on resources rated low, medium, and high with medium and high impacts determining the need for an EIS? Mr. Lockhart said that is essentially how it is done. Key NMFS staff, their NEPA coordinator, and anyone else who needs to be part of the discussion collectively rate the severity of potential impacts and decide the need for an EIS vs. an EA by these ratings. At the end, this can be a judgment call. If there are mostly low impacts and no high impacts in the score, then an EA is generally decided to be sufficient. At this extreme, the action could even be under a categorical exclusion, requiring no NEPA analysis. Mr. Melcher asked why the internal scoping process under the Endangered Species Act (ESA) is easier to do than for actions subject to the Magnuson Stevens Act (MSA). Mr. Lockhart said the internal scoping process under ESA is more straightforward since the contemplated action is known because entities bring the contemplated action to NMFS for approval under an ESA consultation. Conversely, final MSA actions are unknown until the Council acts. Therefore, NMFS staff has to make a determination of what the Council may ultimately decide to determine if impacts are potentially significant.

Mr. Lockhart then discussed the whiting emergency rule. The final rule required that you had to have participation in the sector prior to January 1, 2007 in order to participate this year. NMFS added a front end date of January 1, 1997, meaning that you had to have participated in a particular sector of the whiting fishery between January 1, 1997 and January 1, 2007 to be able to participate in that sector this year. This was done because in the emergency rule discussion we had to determine what the Council meant by sector-specific participation. The first time the three sectors were in place by regulation was

January 1, 1997. That was his call to make the decision on the front end date. After publication of the emergency rule, the NWR received a significant amount of comment, including from Council members. Based on the comments received and reviewing the Council record, the NWR concluded the front end date is counter to the Council intent. The proper front end date for the shoreside whiting sector should have been January 1, 1994. There were two vessels that would have been excluded due to the January 1, 1997 date. The NWR could have gone through another emergency rule to correct the issue, but it was decided that would take too long. Therefore, the NWR decided to modify the shoreside whiting EFPs for these two vessels to allow them to fish in the shorebased fishery this year. The additional date was done through the EFP process and not by additional rulemaking.

Mr. Lockhart then addressed Agenda Item E.1.a, Attachment 4: NMFS Report on Vessel Ownership Interest in the Limited Entry Fleet for Vessels Registered to Permits with Sablefish Endorsements. This review was requested by Mr. Alverson at the April meeting, who had explained how FVOA vessel owners divide their vessel and permit ownership interests in Alaska fisheries. Mr. Alverson specifically requested a revision of the Amendment 14 "owner on board" regulations such that if a person has 20% or less ownership interest in a vessel participating in the limited entry primary sablefish fishery, that person should not be considered to have responsibility for or control of the permits attached to that vessel. The NWR staff determined the Council would have to consider the implementing regulations for Amendment 14, consider the prior public record on the reasons for limiting vessel ownership interests, and provide rationale for and the effect of revising those ownership limits. He explained that the 20% ownership interest threshold comes from Alaska halibut and sablefish IFQ regulations. They require any vessel owner, with at least a 20% ownership interest in the vessel who was initially issued halibut or sablefish quota share, be subject to an owner on board requirement. He then thanked Ms. de Reynier for putting the Attachment 4 document together and stated she could answer any further questions on this issue. Ms. Culver asked Ms. de Reynier to summarize the rationale for the existing Amendment 14 rule. Ms. de Reynier provided background information on amendments 6, 9, and 14. Amendment 6 created the link between the vessel owner and the associated limited entry permit assigned to that vessel. Amendment 9 continued that link of responsibility by tying the vessel owner to the sablefish endorsement and Amendment 14 established the permit ownership limit and owner on board restriction. The rationale for these regulations was to keep the limited entry fixed gear sablefish permits and fleet within the West Coast fishing communities.

Mr. Lockhart also reported that the open access VMS rule will be going to NMFS Headquarters very soon.

Mr. Lockhart stated that emergency rules are difficult for NMFS. If there is uncertainty in a motion for an emergency rule, NMFS has to make the interpretation. If there is any indication for the need for an emergency rule, it would be nice to be able to have one day to review the motion and look at it more closely before it gets voted on. This would be similar to how most groundfish inseason adjustments are decided in two sessions during a Council meeting.

Mr. Moore asked about the shoreside whiting monitoring regulations for this season and where they might be in the process. Mr. Lockhart said the final regulations have not been published yet. Ms. de Reynier added they expect the final rule will be published imminently; the regulations are currently in the Department of Commerce.

Dr. McIsaac agreed with Mr. Lockhart's recommended two-session process for requesting emergency rules. He felt that is a good process to implement if we can. On the interpretation, Mr. Lockhart mentioned that NMFS cannot contact the Council, why is that the case? In the motion for the whiting emergency rule, there was nothing about a date. Why couldn't NMFS staff contact Council staff or the

Chairman? Mr. Lockhart said once they get the request for emergency rule, they cannot ask for an interpretation unless they have a public process to do it. If there is anything unclear in an emergency rule, NMFS makes the final decision. Ms. MacCall said that is the case. NMFS staff could have contacted Council members, the staff, or the chair, but no one can speak for the Council other than the Council itself. She endorsed Mr. Lockhart's process recommendations to schedule an initial adoption of an emergency rule motion, then a final adoption in order to clear up any questions and uncertainties regarding the emergency rule motion.

#### **E.1.b Science Center Activities**

Dr. Elizabeth Clarke, NWFSC, provided an update on science center activities. The hake acoustic survey is starting this Friday. The bottom trawl survey is proceeding successfully. The *David Starr Jordan* has completed the southern juvenile groundfish survey and the PWCC and NWFSC has just completed the northern juvenile groundfish survey.

Mr. Moore asked to clarify results from Council requests at the April meeting. Specifically, there were requests to analyze West Coast Groundfish Observer Program (WCGOP) data to understand crab bycatch in trawl fisheries and another request to look at bocaccio bycatch in fisheries attempting to target chilipepper rockfish south of 40°10' N latitude. His understanding is that the NWFSC did look at bocaccio bycatch in chilipepper fisheries and concluded that there is not enough data to determine whether we can target chilipepper free of bocaccio. Yes, said Dr. Clarke, there is no data to analyze since there have been no targeted chilipepper trips since the inception of the WCGOP. Mr. Moore said this is why there needs to be a trawl EFP to investigate bycatch in chilipepper target fisheries. Dr. Clarke agreed that an EFP may be needed since there are no other sources of data. Dr. Clarke said that NWFSC staff will present the analysis of crab bycatch in trawl fisheries this fall.

Dr. McIsaac thanked Dr. Clarke for facilitating a smooth stock assessment process.

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

None.

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

Mr. Bob Alverson, Seattle FVOA, Seattle, WA

#### **E.1.e Council Discussion on NMFS Report on Groundfish Management**

Mr. Melcher asked about changing the number of permits that could be controlled vs. changing the level, does that come under the annual regulatory process, or is that an amendment issue. Ms. de Reynier said she did not know. She would have to check the FMP because the FMP might specify the three permit limit. Mr. Moore thought the three permit limit might be an FMP issue. He asked Ms. de Reynier if we were able to make a regulatory change in a normal two-meeting process, would it be easier to do that in the context of deciding annual specifications and management measures rather than set up a separate regulatory process? Ms. de Reynier said she personally thought this is a permit ownership issue; and, as such, we have not dealt with this type of issue as part of the annual specifications and management measures process in the past. However, there are ways we can use the completed specifications and management measures EIS to provide the needed background information that would normally go into an EA for a permit ownership action. This could help the NEPA process, as an assortment of divergent

issues can be analyzed in a single NEPA document. Mr. Moore was just trying to lighten the workload and not have to do double duty on things.

## **E.2 Proposed Process and Schedule for Developing Biennial (2009-2010) Harvest Specifications and Management Measures (06/12/07; 9:49 am)**

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

Mr. John DeVore provided the agenda item overview.

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

#### NMFS Comments

Mr. Lockhart said a determination of the potential significance of the biennial specifications and management measures action and the need for an EIS or EA will be determined later. If we do end up going with an EA, that means that NMFS determined an EA was an appropriate level of analysis to support our decision. Mr. Lockhart agreed with Mr. DeVore that, at this time, it appears that an EA may be appropriate in this case.

Mr. Moore asked if a stock being declared rebuilt would cause a level of significance needing an EIS and Mr. DeVore said that all depends on the implications of changing the management regime. In most cases, Mr. DeVore felt that this would not require an EIS, unlike the converse when a stock is first declared overfished.

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

Mr. DeVore read Agenda Item E.2.c, Supplemental GMT Report.

### **E.2.d Public Comment**

None.

### **E.2.e Council Action: Adopt a Process and Schedule for Developing Biennial (2009-2010) Harvest Specifications and Management Measures**

Dr. McIsaac noted the placeholder in the process and schedule in Agenda Item E.2.a, Attachment 1 that was set up for a mop-up stock assessment review panel in early October. Later this week, the Council will hear about some assessments already recommended for the mop-up panel. The SSC was advised this week to set up a summer mop-up panel, if necessary. Mr. Lockhart said any acceleration of assessment reviews is problematic since the limiting factor in scheduling reviews is the availability of Center for Independent Experts (CIE) reviewers. There is no chance in getting a CIE reviewer earlier than what is already scheduled.

Mr. Melcher requested clarification on the GMT's concern regarding new West Coast Groundfish Observer Program (WCGOP) data delivered in June 2008 at the same time we are to take final action on the 2009-2010 management measures. Is the concern the new observer data could confuse the Council's decision on final management measures if it comes in very late? Mr. DeVore said yes, new observer data could change the analyses in the June briefing book that are designed to inform the Council's final decision on biennial management measures. This schedule also exacerbates the workload required to

produce and submit a NEPA document on time following the Council's decision. This can delay the entire process scheduled for timely implementation of new regulations. Mr. Melcher asked if the new data delivered in June would be data collected through the end of the preceding year. Mr. DeVore asked the Council to turn to Supplemental Informational Report 4 for the data completeness report, which shows June data delivery is for data through the end of the previous year. Dr. Clarke and Mr. Jon Cusick came to the podium to answer questions on a potentially different WCGOP data feed. Dr. Clarke said Supplemental Information Report 4 was developed as a response to Council requests for more frequent WCGOP data delivery. Mr. Cusick referred to Table 2 in Supplemental Informational Report 4 and explained that frequent data delivery is compromised by the availability of state fish tickets. Table 2 shows an alternative to the current delivery schedule (annually in November). This alternative is delivery of WCGOP data twice a year, in June and November. Dr. Clarke said delivering the data earlier than June is constrained by when we get the data. This alternative schedule is the best we can do to get the data integrated into the system more frequently. Ms. Culver clarified that the scheduled action today is to adopt the process and schedule for deciding 2009-2010 specifications and management measures, which is independent of a WCGOP data delivery schedule. The GMT included this issue in their report just as an FYI; but we are really focused on the Council meeting process. Dr. McIsaac said the NWFSC report was responsive to the canary inseason issue that came up in March. In response to Mr. Melcher's question regarding the "June problem", Dr. McIsaac explained if new science comes in on the eve of making the final decision, it can tie up the process in a knot. There can be a conflict with frequent release of new science timed with its use in management. That tension has always been there.

Ms. Vojkovich, said she did not have any changes to the schedule outlined, but she wanted to bring up GMT workload issues. She noted there is a four-day GMT meeting scheduled in October. She wondered if the GMT could do their work with fewer face to face meetings rather than place demands for face to face meetings and travel time.

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 3) to adopt the process and schedule shown in Agenda Item E.2.a, Attachment 1: *Pacific Fishery Management Council and National Marine Fisheries Service Schedule and Process for Developing 2009-2010 Groundfish Harvest Specifications and Management Measures*.

Motion 3 passed on a voice vote.

### **E.3 Shore-Based Pacific Whiting Monitoring Program (06/12/07; 10:14 am)**

#### **E.3.a Agenda Item Overview**

Mr. Dave Ortmann, Vice-Chair, chaired this agenda item. Mr. DeVore provided the agenda item overview.

#### **E.3.b NMFS Report**

Ms. Yvonne de Reynier provided Agenda Item E.3.b, Supplemental PowerPoint Presentation. She started by explaining attachments 1 and 2 in the briefing book concern the whiting processor rule. This information, which is closely linked to the action considered today, is provided for informational purposes. Attachment 3 is the draft EA which will be used to inform today's decision.

Mr. Moore asked, regarding record keeping and reporting, do the daily processor reports required every 24 hours under alternatives 3 and 4 obviate the need for a daily bycatch report, since those catches are provided? Ms. de Reynier said yes.

Ms. Vojkovich asked if the definition of a whiting trip is changed to 4,000 lbs delivered, would that still allow vessels to catch whiting and sort their catch at sea because that is still the allowable landing limit outside the primary season. Ms. de Reynier said we will have to wait and see how that turns out. Ms. Vojkovich asked if fixing the sorting at-sea problem would require a separate regulatory process than the one contemplated today and Ms. de Reynier said yes.

Ms. Vojkovich asked, regarding shoreside whiting vessel monitoring, is there an option not to use at-sea observers or will Electronic Monitoring System (EMS) coverage under alternative 4 suffice? Ms. de Reynier answered NMFS would still have authority to place observers on vessels under alternative 4, but would have to explain the rationale for doing so. Ms. Vojkovich asked about the need for 100% monitoring of the shoreside whiting fleet under alternative 4. Ms. de Reynier said that meant that 100% monitoring with either EMS or human observers.

Mr. Melcher asked if the Council could address sorting at sea in the primary whiting fishery under this action and Ms. de Reynier responded this is an emerging fishing behavior that cannot be addressed under this action. Ms. Culver asked if the whiting endorsement under alternatives 3, 4, and 5 would be needed by vessels sorting at sea in the whiting fishery and Ms. de Reynier said no, this is not part of this action. Ms. Culver asked if a fisherman wanted to land more than 4,000 lbs of whiting would they need to have a whiting endorsement and Ms. de Reynier said yes. Ms. de Reynier further explained that if the vessel targeting whiting and sorting catch at sea were processing their whiting, they would be considered catcher-processors and would be required to carry an observer. If the Council wants observers on vessels sorting at sea, this can be done with extra analysis in the 2007 EA.

Ms. Vojkovich asked for an explanation of the data quality control monitor concept in the alternative for monitoring whiting catches. Ms. de Reynier explained all first receivers of whiting catches would require a data quality monitor.

Ms. Culver asked if there is a way to not allow vessels sorting at sea during the primary whiting fishery as part of a potential required whiting endorsement. Ms. de Reynier said it might be possible to only allow midwater trawl vessels targeting whiting to fish in the RCA if they had a whiting endorsement. Mr. Lockhart asked if the original RCA exemption was just for the whiting fleet and Ms. de Reynier said yes.

Mr. Moore asked if it was correct that heading and gutting alone is not processing and Ms. de Reynier said that was correct, but if tailing (i.e., cutting off the tail), then it is processing.

Mr. Moore said the processor permit idea was originally recommended during discussions with the Shoreside Whiting Advisory Group (SWAG) as a way to ensure all processors abide with the catch monitoring, sampling, and reporting requirements. Will this be an extended requirement? Ms. de Reynier explained this is an experiment to understand whether it will be needed in the long term.

### **E.3.c Agency and Tribal Comments**

None.

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

#### SWAG Report

Mr. Moore summarized Agenda Item E.3.d, SWAG Report. The NMFS alternatives contain most if not all the recommendations of the SWAG.

#### GMT Report

Ms. Kelly Ames provided Agenda Item E.3.d, Supplemental GMT Report.

Mr. Melcher asked if there were elements of the NMFS preferred alternative not recommended by the GMT and Ms. Ames said no, all elements are recommended.

Ms. Culver asked how bycatch is accounted for and incorporated in the GMT's bycatch scorecard for whiting vessels sorting at sea and Ms. Ames responded this bycatch is not accounted for in the GMT's scorecard. Ms. Culver asked if the GMT discussed if some estimate of bycatch using this fishing strategy should be included in the scorecard and Ms. Ames responded the GMT did discuss this, but without any monitoring information available, the GMT could not figure out a way to estimate that vessel's bycatch. Mr. Moore asked if a bycatch rate from observed vessels not sorting at sea that was fishing near a vessel sorting at sea could be used to estimate bycatch and Ms. Ames said there was no consensus by the GMT to use this methodology. Ms. Culver asked if the GMT discussed whether the bycatch from vessels targeting whiting and sorting catch at sea should count against the bycatch caps specified for the non-tribal whiting fleet and Ms. Ames said the GMT did not reach a conclusion or recommendation on this issue.

#### GAP Report

Ms. Heather Mann provided Agenda Item E.3.d, Supplemental GAP Report.

Ms. Vojkovich noted the GAP recommends alternative 4 with adjustments, but there is no recommendation for monitoring shoreside vessels at sea. Ms. Mann said the GAP recommends alternative 4 for that element, which specifies 100% EMS monitoring. Mr. Moore noted that alternative 4 provides 100% EMS coverage with vessel owners paying. There would still be authority by NMFS to place observers on vessels under alternative 4. He asked if the GAP recommends this and Ms. Mann said yes.

Mr. Lockhart asked if the GAP recommends one person do plant sampling, data quality monitoring, and catch verification and Ms. Mann said yes. Mr. Melcher asked if the NMFS recommendation was to have three separate people do data quality monitoring, compliance monitoring (catch verification), and plant sampling and Mr. Lockhart said the data quality monitor would be a NMFS-trained individual who does not do any biological sampling. Plant sampling could be done by a state port sampler or an individual hired by the plant. Ms. de Reynier added biological data sampling under alternative 4 would be done by state port samplers. Data quality monitors are separate NMFS-trained individuals that verify the accuracy of delivered catch. Ms. Mann added the GAP still recommends one person do this. Mr. Lockhart noted these are big tasks and divergent, which require more than one person. Ms. Mann said scales for weighing the catch are digital requiring someone to view a computer screen in the plant. Therefore, that same person should also be able to do biological sampling. Mr. Moore said the SWAG discussed this and NMFS did not want a plant employee verifying fish tickets. In summary of the NMFS-preferred alternative, Ms. Culver said state port samplers would sample whiting catch in Washington and California

with a third person verifying catch reporting accuracy. Oregon uses plant employees to sample whiting catch.

### EC Report

Mr. Tony Warrington provided Agenda Item E.3.d, Supplemental EC Report.

Mr. Lockhart asked if recent investigations made regarding shoreside whiting vessel activity concerned dumping of codends at sea and Mr. Warrington said yes. Mr. Moore asked if existing electronic monitoring systems (EMS) would detect dumping of codends at sea and Mr. Warrington said he was not sure. This needs to be further explored.

### **E.3.e Public Comment**

Mr. Rick Harris, Pacific Choice Seafoods, Eureka, CA

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR

Mr. Mike Okoniewski, Pacific Seafood, Woodland, WA

### **E.3.f Council Action: Adopt Final Preferred Monitoring Program (06/12/07; 1:05 pm)**

Mr. Melcher moved and Mr. Moore seconded a motion (Motion 4: Agenda Item E.3.f, Supplemental ODFW Motion, June 2007) to adopt Alternative 4 (EMS and Catch Monitors) as presented in the draft EA (Agenda Item E.3.b, Attachment 3) Table 2.1 with the following amendments:

- 1) Third-party shoreside catch monitors (trained by or to NMFS specifications) responsible for all shoreside observation, species composition, fish ticket verification, biological sampling and all other duties and responsibilities defined in the EA for the combination of Data Compliance Monitors, Industry Samplers and Port Biologists.
- 2) The initial shoreside sampling level will be determined by using the current level of program funding for shoreside observation to hire catch monitors. Evaluation of the appropriateness of this level to be conducted using the initial data collected via the program.
- 3) Overages will be reported on fish ticket and abandon to the state. Prohibited species will be donated. State enforcement will track compliance (status quo).

Mr. Melcher clarified that the phrase, “current level of program funding for shoreside observation” should be labeled “program funding”. In the ensuing discussion, it was made clear that this part of the motion did not address the source of program funding for shoreside monitoring, which has been funded by the states, but the amount of monies dedicated to monitoring and sampling shoreside whiting catch. Furthermore, the current level of program funding is defined by the amount of money used to support these activities in 2007, which may not be adequate in the long term. Monitoring and sampling using this amount of money will be evaluated after the new shoreside whiting monitoring program is implemented to decide if this level of funding is adequate. Mr. Melcher also clarified that the source of funding this work would be industry.

Mr. Lockhart said he believes catch compliance monitoring and biological sampling should be separate activities done by separate individuals and asked if this feature could be amended in the motion. Mr. Melcher said his intent is to develop an efficient program. State port samplers would be expected to aid in the biological sampling as needed. Currently, some of the industry samplers do all the work described. Ms. Vojkovich asked who is the third party employee doing this work and Mr. Melcher explained this could be a state, federal, or private employee, but not a plant employee. Mr. Lockhart thought if modification #2 carries, there may not be enough funding for data compliance monitors to

cover all the plants. Mr. Melcher asked if the current program funding level provides adequate coverage and Mr. Lockhart said no, not all plants are currently sampled. There is an increased estimated cost of about \$12K-\$18K per processor per year. Mr. Lockhart said he was concerned that the current level of funding might limit the program.

Mr. Lockhart moved and Mr. Cedergreen seconded an amendment to Motion 4 to drop amendments 1 and 2 and add guidance that the goal for determining the initial shoreside sampling level would be to match as close as possible the current program funding level, based on an evaluation of the appropriateness of that level.

The discussion of the amendment indicated that there was a basic disagreement between NMFS and some Council members on whether the current level of shoreside whiting catch sampling was adequate. Mr. Lockhart argued it is not, but others argued that hiring three people to do the work of data quality monitoring, catch compliance monitoring, and biological sampling was inefficient. Those against the amendment also stressed that the current level of program funding under the main motion was the initial level of funding and more funding could be requested later if the evaluation of shoreside catch monitoring indicates more monitoring and sampling are needed.

Motion to amend failed (Messrs. Lockhart, Cedergreen, Sones and Ms. Culver voted yes).

Mr. Lockhart added guidance to the main motion that further evaluation of current funding levels will be done by NMFS to determine if all plants are being covered in the proposed rule. The NMFS will solicit comment on this question in the proposed rule and ask the states for their estimation of state funds used to support shoreside monitoring and sampling. Ms. MacCall explained the shoreside whiting sampler cannot be a NMFS employee if the funding is coming from industry, since this would be illegal.

The main motion carried unanimously on a voice vote.

Dr. McIsaac explained that it was not clear whether Alternative 4a or 4b was recommended in the final Council decision. Mr. Melcher explained the motion intended to move Alternative 4b, except for the status quo alternative concerning catch overage disposition. Mr. Moore, the second to the main motion concurred. The Council was in unanimous agreement on the intent to recommend Alternative 4b.

#### **E.4 Amendment 22: Limiting Entry in the Open Access Groundfish Fishery (06/12/07; 2:06 pm)**

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

Mr. DeVore provided the agenda item overview.

##### **E.4.b Scoping and Alternatives Report**

Mr. LB Boydston provided Agenda Item E.4.b, PowerPoint Presentation, available on the Council's website at: [http://www.pcouncil.org/bb/2007/0607/E4a\\_ATT2PPT\\_Sup.pdf](http://www.pcouncil.org/bb/2007/0607/E4a_ATT2PPT_Sup.pdf)

Mr. Melcher noted there is a participation requirement to keep a B permit under all the action alternatives. He asked if B permits are transferable under the alternatives. Mr. Boydston replied yes, it is implied and certainly not precluded. Mr. Melcher asked if the intent of the C permit is to allow non-groundfish fishermen to land incidental groundfish and Mr. Boydston said yes.

Ms. Culver asked if the definition of nearshore rockfish was from the FMP or from federal regulations and Mr. Boydston said the list of nearshore rockfish is as they are defined in the California and Oregon permit requirements. Those species are shown on page 2 of Agenda Item E.4.a, Attachment 2.

Ms. Culver asked if nearshore permitted vessels can participate in open access fisheries and Mr. Boydston said yes.

Ms. Fosmark asked if a fisherman has a nearshore permit and a B permit under the recommended alternatives, does this mean they have to make a landing using only one of those permits during the calendar year. Mr. Boydston said yes, but the B permit goes away if landings are not made on it during any given year. Therefore, one would have to choose between nearshore fishing and fishing in federal waters.

Ms. Culver asked how many vessels are left under the alternatives without the nearshore vessels and Mr. Boydston said he needed Council guidance on this before doing the analysis.

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

##### GMT Report

Ms. Ames provided Agenda Item E.4.c, Supplemental GMT Report.

Ms. Culver asked for comment on the proposed schedule for this process and how this ties into the other groundfish initiatives that involve the GMT. Ms. Ames replied the GMT did not discuss workload planning, although they expect to tomorrow under the agenda planning discussions.

Ms. Culver asked for comment on state-specific needs and objectives. Ms. Ames said the GMT recommends a discussion of state-specific goals and objectives relative to fleet size and other desired outcomes. Mr. Lockhart thought the recommended purpose and needs in the Mr. Boydston's presentation seemed to cover the bases. He was not sure state-specific purpose and need statements are necessary.

Ms. Fosmark asked if the GMT reviewed the NMFS Report on NEPA considerations and Ms. Ames said GMT members reviewed the report but did not discuss it.

##### EC Report

Mr. Warrington provided Agenda Item E.4.c, Supplemental EC Report.

Mr. Moore asked if the EC had any concern with the language allowing nearshore species to be taken in federal waters without a federal permit. Mr. Warrington said there is no problem with this as long as they have a state nearshore permit. This is currently allowed in salmon management. Mr. DeVore said landing requirements in California and Oregon prohibit landing any nearshore species without a state nearshore permit.

##### GAP Report

Mr. Gerry Richter along with Messrs. Kenyon Hensel and Daniel Platt provided Agenda Item E.4.c, Supplemental GAP Report.

Ms. Vojkovich noted the GAP was recommending a fourth alternative. What is meant by a needed analysis of a range of values both in dollars and poundage from 1994-2006? Mr. Hensel said the GAP is trying to determine the least stringent criteria that would cut the fleet to an ideal size in one action. Ms. Vojkovich asked if a data display is needed of the percentage of the fleet landing different amounts of fish in 100 lb bins and Mr. Hensel said yes. Ms. Vojkovich asked what is meant by multi-year landings to determine initial and long term fleet size objectives. Mr. Hensel replied a 1994-2006 landings matrix would help the GAP decide their recommendations for an ideal fleet size. Chairman Hansen asked if there is a recommended fleet size and Mr. Platt said the GAP acknowledges the fleet is very diverse. Fleet size changes as other opportunities increase or decrease. The GAP needs all that background information to decide ideal fleet size.

Ms. Fosmark noted the GAP is recommending inclusion of 2006 data in the analysis, which she thought was a good idea. Recent participation has shifted catches to nearshore species. Deeper water opportunities have been relatively minimal in the past few years. Ms. Fosmark asked Mr. Platt what percentage of the fleet in his port are primarily fishing in groundfish open access and he said about 50% of the fleet in his port.

Mr. Lockhart asked why the current proposal fails to meet the individual states' purpose and need as the GAP maintains? Mr. Richter said that was the feeling of the Oregon representatives on the GAP.

Mr. Moore asked for an explanation of the discard effects currently occurring with nearshore permits and Mr. Richter said deeper nearshore permitted fishermen are discarding a lot of shelf species.

Mr. Moore said professional fishermen in the last 20 years participate in many different fisheries. He asked if it is the GAP's intention to try to include these fishermen in the qualifying criteria for a B permit and Mr. Platt said yes.

Mr. Moore asked why the GAP is recommending permit transferability and Mr. Hensel said it was so they could make money when retiring from the fishery.

Ms. Vojkovich asked if the public comments from John Law were compelling to the GAP and Mr. Richter said the GAP did not discuss those comments.

#### WDFW Report

Ms. Culver provided Agenda Item E.4.c, Supplemental WDFW Report.

Ms. Vojkovich noted there is mention of nearshore participants in many instances in the WDFW report. How does removing the nearshore permits from this process meet Washington state's purpose and need for a federal action? Ms. Culver replied that Washington does not have a nearshore commercial fishery. Counting landings of nearshore species to qualify for a federal permit puts Washington fishermen at a disadvantage.

Mr. Melcher asked Ms. Culver if there are minimum landing requirements built into the CDFG alternatives as well as transferability. Ms. Culver said there are minimum landing requirements across all the alternatives in the report, but she is not sure about transferability.

#### NMFS Report

Mr. Lockhart provided Agenda Item E.4.a, NMFS Report.

Ms. Culver asked if there will be another NMFS scoping session after a final range of alternatives is decided and Mr. Lockhart said he didn't think so. Ms. Culver asked about the process after the Council decides a final preferred alternative with an Environmental Assessment (EA) and Mr. Lockhart said NMFS needs to give the Regional Administrator an early call on whether an EA or an Environmental Impact Statement (EIS) is needed.

#### **E.4.d Public Comment**

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

Mr. Jim Basler, open access fisherman, CA

Mr. Bill James, open access fisherman, Keizer, OR

Mr. Kenyon Hensel, Hensel's, Crescent City, CA

Mr. Josh Churchman, limited entry fixed gear fisherman, Bolinas, CA

Mr. Ed Ewing, commercial fisherman, Morro Bay, CA

Mr. William Daspit, PSMFC economist, Seattle, WA

#### **E.4.e Council Action: Initial Recommendations for Developing Alternatives**

Ms. Vojkovich said the state of California is not asking to remove nearshore species from the FMP nor is the state asking for authority to do all management of nearshore species. The ideas presented this week were recommended in the past by industry and managers. She recommended asking Mr. Boydston about the difficulties in analyzing some of the recommended alternatives. She said she was concerned with the complexity of trying to determine state-specific purposes and needs. She asked Mr. Boydston what he recommended in a basic open access permitting program. Mr. Boydston said the group he worked with to develop recommended alternatives collectively agreed to come forward with simplified alternatives. They had considered sub-area endorsements (i.e., north of 36° N latitude for sablefish and north and south of 40°10' N latitude for rockfish), but this became overly complex and could cause an imbalance in the fishing opportunities by fishing area. If alternatives are state-specific, we might need to have state area sablefish allocations for instance. This makes the analysis more complex and adds greatly to the workload.

Ms. Culver said WDFW is not recommending sub-area endorsements for sablefish. There are some species, such as black rockfish, with state-specific harvest guidelines. We need to keep sight of state goals and objectives in the analysis and discussion, since each state has implemented different nearshore management strategies. Mr. Boydston said taking the nearshore species out of the mix in this initiative may contribute to accommodating state goals and objectives. Ms. Culver asked if removing the nearshore vessels from the analysis meant removing the vessels with state nearshore permits. Mr. Boydston said nearshore-permitted vessels' catch histories would be removed from the analysis. However, he needs Council guidance on this issue before that is done. Ms. Culver said this concerned her since Washington does not have a nearshore commercial fishery. How are catches of Oregon and California vessels with nearshore permits accounted for in the analysis? Mr. Boydston clarified that the analysis would not be done by removing vessels with nearshore permits, but by removing their catch histories of nearshore species. Any California or Oregon nearshore permit holder would use their landings of non-nearshore species to qualify for a B permit. Mr. Melcher sought further clarification by posing the following scenario and asking if it is truly stated: Oregon state nearshore permit holders with no catch history of non-nearshore groundfish species would not qualify for a B permit. Mr. Boydston said that was true, but they could qualify to incidentally land some groundfish using a C permit. That is, B permits would be specified for a directed groundfish fishery and C permits for an incidental groundfish fishery.

Mr. Moore referred to Table 6 in Agenda Item E.4.a, Attachment 2 and asked if the 781 total vessels in the 2006 directed open access fishery were individual vessels with at least one landing of federal groundfish in 2006 and Mr. Boydston said yes. Mr. Moore asked if the total open access vessels in 2006 (958) from Table 5 included open access vessels with directed and incidental groundfish landings and Mr. Boydston said yes.

Mr. Lockhart asked Mr. Boydston how landings are accounted for when removing the nearshore species in qualifying for the B permit and Mr. Boydston said landings estimates do not come from the permits database but from fish tickets.

Mr. Moore asked if nearshore-permitted vessels in 2006 are included in the 781 vessels on Table 6 and Mr. Boydston said yes.

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 5) to adopt the range of alternatives contained in Agenda Item E.4.a, Attachment 2 with the following changes: 1) add an alternative without use it or lose it provisions (i.e., no need to land groundfish against a B permit to renew the permit); 2) add GAP alternative 4 in Agenda Item E.4.c, Supplemental GAP report; 3) change range of dates to qualify for a B permit to April 1998- September 2006; and 4) nearshore species' landings not counted for qualifying for a B permit. As part of her motion, anyone having a state nearshore permit can still land state nearshore species caught in federal waters.

Ms. Vojkovich explained nearshore fisheries are currently dominant in the open access groundfish fishery. Shortening the time frame for qualifying for a federal B permit without counting nearshore species' landings should identify the fishermen with a real stake in open access who are still participating in the fishery.

Mr. Moore asked if the fleet size alternatives (different fleet size goals) were still in and Ms. Vojkovich said yes. Ms. Culver asked if B permits were transferable and Ms. Vojkovich stated she would rather not allow transferable permits, but she is not wedded to non-transferability.

Ms. Culver made a motion, seconded by Mr. Cedergreen, to amend the main motion to include alternatives 1 and 2 in the Supplemental WDFW Report. The amendment also includes an alternative for full transferability of federal B permits.

Ms. Culver explained the Washington open access fleet targets sablefish and WDFW likes the current fleet size in Washington. This decision process time line is aggressive, so proposing a phasing in of some of these measures may be important, which is the reason for WDFW alternative 1. Ms. Vojkovich said she didn't understand the need for these extra alternatives. Ms. Culver explained the only target species in the open access fishery off Washington are sablefish and dogfish, while the fishery further south targets some shelf and slope rockfish. Therefore, the Washington fleet may be at a disadvantage for qualifying for a B permit. Ms. Vojkovich voiced concern that proliferation of alternatives will delay this process. She believes the range of alternatives in the original motion will tease out some of these issues. The Council can decide the need for other alternatives in September.

Mr. Lockhart asked if there is a geographic restriction in the motion and Ms. Culver said no.

The amended motion carried (Messrs. Lockhart and Thomas, and Ms. Vojkovich voted no).

Mr. Lockhart asked if the two options recommended by the EC (C permits for incidental groundfish catches and allowing nearshore permit holders to take nearshore species in federal waters) are included in the main motion and Ms. Vojkovich said yes.

Motion 5 passed.

Ms. Vojkovich thanked Mr. Boydston and the state staffs who put this package together. California will host focus group meetings this summer to talk about this. There will also be a posting of these materials on the CDFG web site.

## **E.5 Preliminary Review of Exempted Fishing Permits (EFPs) for 2008**

### **E.5.a Agenda Item Overview (06/13/07; 1:26 pm)**

Mr. DeVore provided the agenda item overview.

Mr. Thomas informed the Council that he would be recusing himself from the vote on the EFP proposal submitted by the RFA (Agenda Item E.5.a, Attachment 4). Ms. Fosmark informed the Council that she would be recusing herself from the vote on the EFP proposal submitted by Mr. Steven A. Berkeley (Agenda Item E.5.a, Supplemental Revised Attachment 2).

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

None.

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

#### GMT Report

Ms. Kelly Ames provided Agenda Item E.5.c, Supplemental GMT Report.

Mr. Moore asked if there was yield available for EFP bycatch caps in 2008 bycatch scorecard projections and Ms. Ames said the GMT did not review available yields in 2008.

Mr. Moore asked if there was enough sablefish yield in the Conception area to accommodate the ED/TNC EFP. Mr. Burden answered the Conception area sablefish OY in 2008 is 211 mt and it is expected at least 130 mt would be taken in this EFP.

Ms. Vojkovich noted the GMT was not recommending the Churchman EFP without revision and stated they do not have time to review a revised application. In the RFA EFP, there is also a request to revise the gear, yet it is recommended if revised. What is the difference between these EFPs? Ms. Ames answered the RFA proposal has an area-specific component while the Churchman EFP does not.

#### GAP Report

Ms. Heather Mann provided Agenda Item E.5.c, Supplemental GAP Report.

Mr. Moore noted that two of the EFP applications were revised this week. He asked if the GAP reviewed both the original and revised EFP applications and Ms. Mann said yes.

Ms. Vojkovich asked about the GAP concerns with the Churchman EFP and Ms. Mann stated the GAP believes they know how to more selectively harvest chilipepper rockfish.

Mr. Lockhart asked how the GAP concluded the TNC EFP does not provide new information and Ms. Mann said cooperatives are not unique nationally and have been tested in other areas.

#### **E.5.d Public Comment**

Mr. Rick Algert, Morro Bay Harbor Master, Morro Bay, CA  
Mr. Rod Fujita, Environmental Defense, Oakland, CA  
Mr. Michael Bell, Natural Resources Defense Council, San Luis Obispo, CA  
Mr. Ed Ewing, Morro Bay, CA  
Mr. Josh Churchman, fisherman, Bolinas, CA  
Ms. Kate Bonzon, Environmental Defense, Oakland, CA  
Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA  
Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA  
Mr. Tom Ghio, Ghio Fish Company, Santa Cruz, CA  
Mr. Gerry Richter, B & G Seafoods, Santa Barbara, CA

#### **E.5.e Council Action: Adopt Preliminary Recommendations for EFPs**

Ms. Vojkovich moved and Mr. Lockhart seconded a motion (Motion 9) to put forward all four submitted EFP applications as shown in Agenda Item E.5.a, Attachment 1, Supplemental Revised Attachment 2, Supplemental Revised Attachment 3, and Attachment 4 for further refinement, further analysis, and consideration for final adoption at the November Council meeting.

Ms. Vojkovich said, in combination, the GMT and GAP recommended all four EFPs, although they also recommended revisions for each. The GMT and GAP also identified the need to collect more fishery information from these EFPs. Mr. Lockhart said he supported the motion. Each EFP has some merits and some problems. This action will give the applicants time to work out these problems. If they are not fixed, they can be eliminated in November. Mr. Anderson said the Churchman EFP application needs at least three revisions (no bait, caps for some species, and a minimum weight to bottom leader distance). The refinements need to be communicated to the applicants. Mr. DeVore said he would do so.

Mr. Moore asked if NEPA coverage is needed for an EFP and Ms. McCall said there may be a need to do a tiered analysis or conclude the potential impacts were already covered in a previous NEPA analysis. The EFP applicants need to know there may be some delay.

Mr. Moore moved and Mr. Cedergreen seconded a motion to amend motion 9 to not accept the TNC/ED EFP as shown in Agenda Item E.5.a, Supplemental Revised Attachment 3.

Mr. Moore said he was very concerned with the volumes of fish needed in this EFP and the effect on directed fisheries in the Conception area. With a 211 mt sablefish OY, the EFP could exceed the OY on its own under option 1 and most of the OY under option 2. No EFP has had such a high impact. Ms. Vojkovich said this is an issue she believes needs to be fixed in the application. Mr. Cedergreen said he shares Mr. Moore's concerns and the Morro Bay problem is not solved with this EFP. Mr. Anderson said he has been a long time proponent of trawl gear switching. He would also like to explore the efficacy of a cooperative arrangement after trawl rationalization. However, he has serious concerns with the TNC EFP application and the details that need to be ironed out. A lot of work is needed and he is concerned with GMT and GAP workload. He is also concerned with providing fishing opportunities to

non-permitted fishermen in this EFP. The intent of the TNC EFP is good, but the timing and approach are not.

Mr. Lockhart said there are many details to work out in the TNC EFP application, but they are not insurmountable. He disagrees with the GAP statement that infers all cooperatives are alike. This is different and regional fishing associations (RFAs) may be needed in the future to transition fishing communities to a new management regime after trawl rationalization. The information from this EFP application could help us develop criteria to form RFAs. Therefore, he is against the motion to amend Motion 9. Ms. Vojkovich said she agrees with Mr. Lockhart. California south of Mendocino is very different from the north and it is expected that the management regime there may go through many changes in the near future. The TNC EFP attempts a different way of managing fishery resources and fishermen. Mr. Anderson asked if the primary purpose of the TNC EFP is to decide criteria for forming RFAs and Mr. Lockhart said yes. Ms. Vojkovich reminded the Council that the TNC EFP application has a provision to use electronic monitoring. Mr. Moore said he agrees with many of the comments made by Mr. Lockhart and Ms. Vojkovich. However, these potential benefits could be attained in other ways. There are too many problems with this EFP. Mr. Melcher said he agrees with comments made on both sides of this issue. He believes all four EFPs should go forward, but many refinements are needed in each.

Dr. McIsaac asked, as a point of procedure, whether the two recused Council members are allowed to vote on the amendment since it deals with only one EFP in which they have no personal interest. Ms. McCall said they are allowed to vote on the amendment, but not the main motion.

The amendment to Motion 9 failed on a roll call vote with Messrs. Sones, Melcher, Thomas, Warrens, Anderson, Lockhart, and Ms. Vojkovich voting against the amendment.

The main motion passed with Mr. Moore voting against the motion and Mr. Thomas and Ms. Fosmark recusing themselves from the vote.

## **E.6 Stock Assessments for 2009-2010 Groundfish Fisheries**

### **E.6.a Agenda Item Overview (06/13/07; 4:01 pm)**

Mr. DeVore provided the agenda item overview.

### **E.6.b Scientific and Statistical Committee Report**

Mr. Robert Conrad provided Agenda Item E.6.b, Supplemental SSC Report.

Mr. Lockhart asked if the widow rockfish update was suitable for management decision-making and Mr. Conrad replied the SSC will do a review in September after the catch data are fixed. The SSC will therefore have a recommendation in September. Dr. McIsaac asked if there is a chance the widow rockfish assessment result will change much after revision and Mr. Conrad said no, other model runs were made indicating very little change.

Mr. Anderson asked how the revisions in the cowcod update assessment led to a conclusion that the Terms of Reference were not followed and Mr. Conrad stated the SSC based that conclusion on the criterion that the model results were dramatically different. Mr. Anderson asked if error corrections led to the dramatic change and Mr. Conrad said yes, especially how selectivity was specified in the assessment. Mr. Anderson asked if the rationale for changing a natural mortality rate as in the yelloweye update would

not lead to this conclusion and Mr. Conrad responded not if the assessment result did not dramatically change.

Mr. Anderson asked if a full cowcod assessment can be prepared in time for the mop-up panel and Mr. Conrad said yes and potentially in time for the darkblotched STAR panel in mid-July.

Mr. Anderson asked for an explanation of the SSC statement that a new natural mortality rate of 0.043 for yelloweye is consistent with the old assessment with a natural mortality rate of 0.036. Mr. Conrad said the statement should have read the model result is consistent.

Mr. Moore expressed concern that the shortbelly assessment did not follow the STAR panel process and the precedent this sets. Mr. Conrad agreed and said the SSC prefers a proper STAR panel process.

Ms. Vojkovich said she was confused about how to use the shortbelly assessment results and Mr. Conrad said it is up to Council how this assessment should be used. It is not necessarily an SSC recommendation to use the assessment. The SSC recommendations concern how it should be used if it is desirable to use this result. Dr. McIsaac noted there is no firm recommendation on how to determine shortbelly harvest specifications. Mr. Moore asked if the GMT and Council should consider this assessment in recommending harvest specifications the same way a NMFS Technical Memorandum might be used to inform a decision and Mr. Conrad said this is a gray area since it is out of the process. Dr. McIsaac thought in this unfortunate situation, the recommendation is to use the assessment to set OY.

Mr. Anderson asked if there were two black rockfish assessments and Mr. Conrad said yes. Ms. Vojkovich asked, if the southern black rockfish assessment is recommended by the mop-up panel, do both the northern and southern black rockfish assessments come to the Council in November? Mr. Conrad responded the northern black rockfish assessment will be considered in September and the southern black rockfish assessment in November.

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

None.

#### **E.6.d Public Comment**

None.

#### **E.6.e Council Action: Approve Stock Assessments**

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 10) to approve and endorse the following full and updated stock assessments for Council decision making for the next biennial groundfish management cycle: sablefish, longnose skate, English sole, Pacific ocean perch, and yelloweye rockfish.

Mr. Anderson said these assessments have all gone through the STAR panel review process, were reviewed by the SSC, and recommended to the Council by the SSC for use in management decision-making. Mr. Moore assumed that the widow update was left out of the motion because of the need for future work in September and Mr. Anderson confirmed that assumption.

Motion 10 passed.

Mr. DeVore asked about the shortbelly rockfish assessment since the Council motion was silent to it. Should we take the SSC guidance on how to use shortbelly assessment results? Mr. Anderson said he did not have all the information on shortbelly, but from his perspective, this assessment did not follow the Council review process. While he is not suggesting the assessment wasn't well done, he is not recommending formal adoption of the assessment until additional information comes forward and until he has had a chance to understand what this assessment is suggesting. Mr. DeVore said we will have to resolve this issue before November.

Mr. Anderson cautioned the Council not to recommend too many assessments to the mop-up STAR panel. Dr. McIsaac said the precaution the Council could take now is to reserve the first week of October for a mop-up panel as scheduled and try to do the additional mop-up reviews in the summer. Mr. Lockhart asked Dr. Clarke to speak to this issue. Dr. Clarke said we could try to schedule another review panel in August, but since the cowcod assessment is close to completion, the SSC felt it could be reviewed by the darkblotched review panel, which is currently scheduled in mid-July. She added there is no potential to schedule an additional STAR panel with CIE reviewers. Dr. McIsaac summarized that the cowcod review will be attempted in mid-July in association with the darkblotched assessment review and we will plan the mop-up panel for the first week of October.

## **E.7 Consideration of Inseason Adjustments**

### **E.7.a Agenda Item Overview (06/13/07; 5:05 pm)**

Mr. DeVore provided the agenda item overview.

### **E.7.b Report of the Groundfish Management Team (GMT)**

Ms. Kelly Ames provided Agenda Item E.7.b, Supplemental GMT Report. Mr. Merrick Burden was on hand to help answer questions.

Mr. Moore asked why Ms. Ames removed the last sentence from the section of the GMT statement concerning Pacific whiting bycatch caps and Ms. Ames said that was done because the GMT did not discuss a recommendation for Pacific whiting.

Mr. Moore explained that darkblotched rockfish impacts are needed by the limited entry bottom trawl fleet in the fall to target petrale sole. Is there a chance that we may run out of darkblotched by this fall? Mr. Burden explained the March Council action to move the fleet offshore to reduce canary rockfish impacts increased uncertainty, which may increase our risk of early darkblotched OY attainment. Mr. Moore asked if precaution is warranted and Mr. Burden said the GMT did not discuss this. He personally recommends more precaution.

Dr. McIsaac asked why inseason actions are recommended for an August 1 implementation when past June Council actions were implemented by July 1. Ms. Ames deferred to NMFS and Ms. de Reynier explained regulatory streamlining has ironically resulted in a delayed NMFS process. Chairman Hansen asked if actions can be implemented by mid-July and Ms. de Reynier explained that NMFS cannot decrease limits mid-period.

Mr. Myer asked if there is generally higher bycatch in the early whiting season and Mr. Burden replied that has been the pattern in recent years. He was not sure if this was due to the availability of whiting early in the season.

Mr. Melcher asked if a regulatory streamlining delay has implications for inseason actions recommended for other FMP species such as salmon and Mr. Lockhart said this does not affect the process for salmon. Mr. DeVore expressed concern that August 1 is mid-period, which may be problematic for some of the recommended inseason adjustments. Mr. Burden said the only problematic recommendation is for the shelf limits in the south for widow-bocaccio-shelf rockfish. He thought a September 1 implementation would work better than August 1 for that inseason adjustment.

#### **E.7.c Agency and Tribal Comments**

None.

#### **E.7.d Reports and Comments of Advisory Bodies**

Mr. Tom Ancona provided Agenda Item E.7.d, Supplemental GAP Report. Mr. Gerry Richter was on hand to help answer questions.

Chairman Hansen asked if there was adequate GMT-GAP interaction and Mr. Ancona answered through no fault of the GMT and the GAP, there was not enough time to discuss all the issues since both bodies were very busy with a crowded agenda.

#### EC Report

An oral report was provided by Mr. Dayna Mathews. Based on discussions with the GMT, Mr. Mathews recommends a date certain for implementing inseason actions. Decreasing a trip limit in the middle of a period creates a race for fish.

#### **E.7.e Public Comment**

None.

#### **E.7.f Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2007 Groundfish Fisheries**

Mr. Moore moved and Mr. Melcher seconded a motion (Motion 11) to adopt the following inseason commercial fishery adjustments as shown in Agenda Item E.7.b, Supplemental GMT Report:

- increase the open access sablefish daily-trip-limit fishery weekly limit south of 36° N latitude to 800 lbs per week beginning August 1;
- increase the shortspine thornyhead limit in the limited entry fixed gear fishery south of 34°27' N latitude to 3,000 lbs per two months in period 4;
- implement a combined widow-bocaccio-shelf rockfish limit in the limited entry fixed gear fishery between 34°27' N latitude and 40°10' N latitude of 500 lbs per month beginning September 1;
- move seaward boundary of trawl RCA between Cascade Head and the Columbia River to 200 fm beginning August 1;
- increase the longspine thornyhead limits for large footrope trawls north of 40°10' N latitude to 25,000 lbs per two months beginning in period 4 for the remainder of the year;
- increase the Dover sole limits for limited entry groundfish trawls south of 40°10' N latitude to 80,000 lbs per two months beginning in period 4 for the remainder of the year;
- increase the chilipepper rockfish cumulative limit for small footrope trawls south of 40°10' N latitude to 800 lbs per month beginning August 1.

Mr. Anderson asked for a friendly amendment to change the period 4 implementation dates to August 1, which was accepted by the maker and the seconder of the motion.

Motion 11 with the friendly amendment carried unanimously on a voice vote.

## **E.8 Amendment 21: Intersector Allocation**

### **E.8.a Agenda Item Overview (06/14/07; 8:08 am)**

Mr. DeVore provided the agenda item overview.

### **E.8.b Recommendations of the Groundfish Allocation Committee (GAC)**

Mr. DeVore referred to Agenda Item E.8.b, GAC Report and summarized the GAC's intersector allocation recommendations starting on page 9.

Mr. Moore asked if the GAC recommendation to analyze four trawl sectors in the intersector allocation process presupposes a decision on the number of trawl sectors in the trawl rationalization program. Mr. DeVore replied no, the analysis will simply stratify the data in the analysis for four sectors, but we are not asking for a decision on the number of trawl sectors in this process.

Mr. Myer asked if reserves (i.e., yield buffers) are included in the analysis as set-asides. Mr. DeVore said no, reserve amounts need to be defined for analysis.

### **E.8.c Agency and Tribal Comments**

None.

### **E.8.d Reports and Comments of Advisory Bodies**

#### GAP Report

Mr. Dan Waldeck provided Agenda Item E.8.d, Supplemental GAP Report.

Ms. Vojkovich asked what does the term "recreational fisheries without long-term allocations" mean and Mr. Waldeck responded these would be set-asides for incidental catch in recreational fisheries.

#### GMT Report

Ms. Kelly Ames provided Agenda Item E.8.d, Supplemental GMT Report.

Ms. Vojkovich asked for an explanation of the GMT recommendation regarding delaying allocation of cowcod, bocaccio, canary and yelloweye. She was unaware that this was a GAC recommendation as stated in the GMT report. Ms. Ames said that was the GMT's interpretation of the GAC report. Mr. DeVore said the preliminary intersector allocation alternatives 5-8 in Agenda Item E.8.a, Attachment 2, concern long term allocations for overfished species. The GAC did not recommend removing all those alternatives from the analysis, so it can be inferred that delaying an allocation decision for those species was not recommended by the GAC. Ms. Vojkovich said this must therefore be a misinterpretation of the GAC recommendation by the GMT.

Ms. Vojkovich asked about the effects of differential regulations by sectors as stated in the GMT report. Ms. Ames said the example the GMT discussed was yelloweye and how landings in recreational and commercial hook-and-line fisheries are prohibited, but a small landing limit is allowed in the limited entry trawl fishery to be able to land some of the unavoidable bycatch of yelloweye in that fishery. Mr. DeVore said, depending on the alternatives adopted today, implications under those alternatives that have a landed catch basis will be compared to those with a total catch basis. Regulatory-induced discard, which does vary by sector, can be explored in that comparison. Ms. Vojkovich asked if there would be a display of the regulations by sector in the EIS and Mr. DeVore said yes. Mr. Anderson asked if there is a need to address regulatory discards, discard mortalities, and the constraints imposed by managing low yields that affect access to target species in the analysis and Ms. Ames replied yes.

#### **E.8.e Public Comment**

Mr. Peter Huhtula, PMCC, Astoria, OR  
Mr. William Daspit, economist, Seattle, WA

#### **E.8.f Council Action: Adopt Alternatives for Analysis**

Ms. Vojkovich recommended a discussion of the set-asides and reserves question. Mr. Myer said enough yield needs to be set aside to cover research and other non-directed fishing activities that cause mortality. Perhaps options that set 2%, 5%, and 10% reserves could be analyzed as buffers against uncertainty and unforeseen impacts. Mr. Anderson said he was struggling with the reserve concept. Research set-asides are straight-forward and we need to calculate set-asides for EFPs. Tribal set-asides are not clear cut. Do we use historical catches to analyze tribal set-asides? Perhaps if we had a category of incidental catches that are not specific to incidental open access we could accommodate the reserve question. What about allocations of dogfish where there is a high incidental catch? For some species, setting aside yield for non-directed fishing activities is not straight-forward. He hopes to discern which species need a reserve set-aside in the analysis.

Mr. Melcher noted the GAC had a recommendation to first do trawl allocations. The other sectors would be allocated later and reserves could be lumped into the non-trawl catches at this stage. Ms. Fosmark pointed out many incidental open access fisheries catch groundfish and these catches should be set aside. Mr. Cedergreen noted reserve yield could be used by any sector to cover any unforeseen events, but we need to define this better. Mr. Anderson said that Mr. Melcher's comments help. If we assume that our fishery mortality data includes all fishing-related mortalities, there are still some species, such as dogfish and arrowtooth flounder, where we do not have accurate accountability. A set-aside of available yield may be more important for this category of species.

Ms. Vojkovich said the GAC's recommended focus is on trawl allocation at this point. Given this, how do we deal with recreational EFPs that are trying to access species not normally caught in recreational fisheries? How do we allocate such species when deciding a future management regime that might be much different than status quo? Nonetheless, she agrees with the reserve concept and thought perhaps analyzing a reserve range of 1-50% of available yield might be appropriate at this stage.

Mr. Myer asked what happens if research catches are larger than projected? Such catch overages could be covered with a reserve yield. Mr. Moore noted salmon fishermen catch hake and such incidental catches need to be accounted for. It may be easier to categorize species that need a reserve and those that do not need a reserve. He questioned whether a reserve is needed for EFPs. With a set allocation, it's possible to use part of a sector's allocation to cover an EFP that is specific to that sector. With a 50% reserve, do we even need to allocate?

Mr. Cedergreen thought the Council should consider starting out conservatively with larger set-asides (i.e., reserves) and allocate from the set-aside as yield is needed. Mr. Lockhart's recollection of the importance of the reserve concept was to help prevent catch overages in one sector from reducing or eliminating fishing opportunities in other sectors. If a reserve is not needed, it could be allocated back to directed fisheries using a prescribed allocation formula. Staff may get a good idea of the need for and the magnitude of buffers (i.e., reserves) in analyses. Ms. Fosmark remarked that salmon trollers were no longer able to keep groundfish with the implementation of RCAs; therefore, landings do not reveal actual catches. Perhaps after license limitation in the open access sector, we will better understand that sector's allocation needs. Mr. Myer added a reserve does not have to be in place for the entire year. Yield could be released toward the end of the year to directed fisheries.

Mr. Anderson referred to the table depicting preliminary intersector allocation alternatives recommended by the Council in November 2006 (Agenda Item E.8.a, Attachment 2) and moved, with Mr. Myer's second, a motion (Motion 12) to adopt intersector allocation alternatives for analysis as follows:

- status quo allocations;
- alternative 1 with allocations for four limited entry trawl sectors and all other sectors combined using 2003-2005 total catch percentages;
- alternative 2 with allocations for four limited entry trawl sectors, as well as the limited entry fixed gear, directed open access, and recreational sectors using 2003-2005 total catch percentages;
- alternative 3 with allocations for four limited entry trawl sectors and all other sectors combined using 1995-2005 landed catch percentages;
- eliminate alt 4;
- alternative 5 with allocations for four limited entry trawl sectors and all other sectors combined using 2003-2005 total catch percentages;
- eliminate alternative 6;
- alternative 7 with allocations for four limited entry trawl sectors and all other sectors combined using 1995-2005 landed catch percentages;
- eliminate alternative 8;
- set-asides to be determined for projected research, EFPs, and buffers (i.e., reserves);
- 5%, 15%, and 25% buffers (i.e., reserves);
- tribal fishery impacts in the analysis should use the current set-asides for sablefish and whiting, and the most recent tribal catches for other species (further government to government discussions will occur to pursue formal tribal allocations). Projected tribal catches by species will be considered as set-asides in the analysis;
- develop a framework process for future allocation of species not immediately allocated (i.e., for overfished species in alternatives 5 and 7).

Mr. Anderson further explained his motion by clarifying that alternative 2 is the only one where all sector allocations are analyzed. Alternative 3 gives a retrospective look at sector catch percentages. A range of set-asides could be species-specific, but does not account for tribal catches (i.e., don't include tribal catches in set-asides). The framework process would treat species close to being rebuilt differently than those with extended rebuilding periods.

Ms. Vojkovich asked if analyzing total catch percentage alternatives and landed catch percentage alternatives will aid us in understanding sector-specific regulatory-induced discards and Mr. Anderson said yes. This analysis should be informative for making the allocation decision and for setting reserve amounts. Species with more uncertain catch histories may need a larger reserve. Ms. Vojkovich asked if the term incidental would therefore be broader in scope and Mr. Anderson said yes.

Ms. Vojkovich asked which period represents the most recent tribal catches and Mr. Anderson replied the most current tribal catch projections would be used as an initial proxy in analysis. He believed that this level of tribal harvest would be a good place to start the analysis.

Mr. Anderson further clarified that the framework process for allocating species not immediately allocated should focus on trawl-dominant overfished species predicted to be rebuilt relatively soon.

Mr. Moore asked if the tribal sliding scale allocation formula for whiting should be considered the current tribal set-aside for that species in the analysis and Mr. Anderson said yes. Mr. Moore asked if the reserve set-aside range would cover all the set-asides and Mr. Anderson said it should cover all incidental catches and set-asides except tribal catches. Mr. Moore noted that those alternatives using 1995-2005 catch percentages will have a mix of total and landed catches and asked if this is needed? Mr. Anderson thought the analysis of catch percentages over that period may be informative to understand how things have changed over time and what account for those changes. He explained any particular time period will not necessarily be the basis for the decided allocation, but might inform an eventual decision. Mr. Moore noted over that time period, there were whiting allocation decisions made in 1996, a tribal whiting allocation in 1997, and this could be a big workload. Mr. DeVore said the effect of annual regulations on a sector's landed catch will be taken into account in the analysis. He thought these were reasonable alternatives to analyze.

Mr. Melcher noted the GAC recommended removing alternatives 4 and 8, but they also recommended the most recent 2007 scorecard be presented in November when a preferred alternative is decided. He would like to compare 2007 catch projections from the scorecard in this analysis.

Mr. Lockhart asked for an explanation of the requested development of a framework for overfished species and Mr. Anderson stated the allocation framework would be developed for just the trawl-dominant overfished species (i.e., darkblotched, widow, and Pacific ocean perch).

Mr. DeVore said the request for a November 2007 scorecard cannot be accommodated in November because the most recent scorecard that will be available for the November briefing book will be the one developed by the GMT in September. Mr. Anderson said he would accept the September 2007 scorecard in analysis, but he eventually wants the November 2007 scorecard in the DEIS. Ms. Vojkovich asked if this scorecard would be the basis for another alternative or should it be considered a useful analytical tool? Mr. Anderson said the scorecard would be used for analytical purposes only.

Mr. Anderson told Mr. DeVore that there is a need in the analysis to look at differences in mortality rates for discarded species. Mr. DeVore said that detail will be put into the analysis. Ms. Vojkovich asked if the request for the 2003-2005 discard mortality estimates from the NWFSC to fill the data gaps in the total catch alternatives 1 and 5 is included in the motion. Mr. DeVore said that request will be made if the motion passes.

Motion 12 carried on a unanimous voice vote.

## **E.9 Amendment 20: Trawl Rationalization Alternatives (Trawl Individual Quotas and Cooperatives)**

### **E.9.a Agenda Item Overview (06/14/07; 10:35 am)**

Mr. Jim Seger provided the agenda item overview through a PowerPoint presentation ([Agenda Item E.9.a, Supplemental PowerPoint Presentation](#)) and summary of Agenda Item E.9.a, Attachment 2. Dr. Ed

Waters summarized the results of Agenda Item E.9.a, Supplemental Attachment 4 (Supplemental Quantitative Analysis of Qualification and Allocation Rules).

Mr. Merrick Burden provided a PowerPoint on preliminary discussion ([Agenda Item E.9.a, Supplemental PowerPoint Presentation 2](#)) and analysis of overfished species management constraints in a rationalization program (Agenda Item E.9.a, Supplemental Revised Attachment 5).

#### **E.9.b Recommendations of the GAC**

Mr. Seger summarized the GAC Report (Agenda Item E.8.b, GAC Report, page 2).

#### **E.9.c Agency and Tribal Comments**

None.

#### **E.9.d Reports and Comments of Advisory Bodies**

Ms. Mann provided Agenda Item E.9.d, Supplemental GAP Report.

Ms. Ames provided Agenda Item E.9.d, Supplemental GMT Report (this report was based on area management). She also spoke to Agenda Item E.9.d, Supplemental GMT Report 2.

Dr. Bob Conrad provided Agenda Item E.9.d, Supplemental SSC Report.

Mr. Seger summarized Agenda Item E.9.d, Supplemental TIQC Report (highlighting the recommendations on Page 9).

Mr. Dayna Matthews provided Agenda Item E.9.d, Supplemental EC Report.

#### **E.9.e Public Comment (06/14/07; 2:16 pm) – Vice Chairman Ortmann**

Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA  
Mr. James P. Walsh, Pacific Seafood Group, Seattle, WA  
Mr. Jim Caito, Caito Fisheries, Fort Bragg, CA  
Mr. Bruce Pregelbauer, Globalwise (for West Coast Seafood Processors Association), Portland, OR  
Mr. Ralph Brown, fisherman, Brookings, OR  
Mr. William Daspit, economist, Seattle, WA  
Ms. Johanna Thomas, Environmental Defense, Oakland, CA  
Mr. Mike Okoniewski on behalf of Rick Harris, Pacific Seafoods, Eureka, CA  
Mr. Peter Huhtula, PMCC, Astoria, OR  
Mr. Tom Libby, Pt. Adams Packing, Hammond, OR  
Mr. Mike Okoniewski, Pacific Seafood, Woodland, WA  
Mr. Matt Lund, Ocean Beauty, Seattle, WA  
Mr. Allen Kimball, Trident Seafoods, Seattle, WA  
Mr. Richard Carol, Ocean Gold Seafoods, Westport, WA  
Ms. Laura Pagano, NRDC, San Francisco, CA  
Mr. Stuart Nelson, consultant, Canada  
Mr. Kurt Cochran, F/V Marathon, Siletz, OR  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Mike Stone, United Catcher Boats, Seattle, WA

Ms. Donna Parker, Arctic Storm Management Group, Seattle, WA  
Mr. Brad Pettinger, Oregon Trawl Commission, Astoria, OR  
Mr. Steve Hughes, United Catcher Boats, Seattle, WA

#### **E.9.f Council Action: Refine Alternatives for Analysis**

Dr. Hanson moved (Motion 13) to adopt the alternatives contained in Agenda Item E.9.a Attachment 2, with the following modifications:

- in Section A-2.1.3 (page 23) maintain Option 2 (equal sharing of the buyback permit QS pool);
- in Section A.2.2.1 (page 25), maintain element 6 on a minimum holding requirement and encourage the GMT to explore this area further;
- eliminate adaptive management (item 4 of Section A.2.4 and A-3 adaptive management [page 29]);
- in footnote t (page 32) increase the own-or-control accumulation limit options for the shoreside whiting sector to 10%, 15%, and 25% and eliminate reference to the 50% rule for ownership affiliation for the mothership sector, as requested by industry;
- under movement between motherships (page 41) strike option b (the option allowing vessels to move between motherships without participating in the non-co-op fishery) ;
- under co-op formation and structure (page 44) replace the third paragraph with two options, as recommended on page 5 of the TIQC Report.

With respect to maintaining Option 2 in Section A-2.1.3, Dr. Hanson noted that he reached this recommendation based on data that had been developed since the GAC meeting at which the recommendation to drop Option 2 had been developed. Mr. Anderson seconded the motion.

Mr. Moore moved to amend Motion 13, by dropping the third item in Section A-2.4 (page 29) and, in the first paragraph under shoreside sector co-op formation and structure (page 44), replacing “date range to be determined” with “single year 2001, single year 2000, and range of years 2000-2003 inclusive” as recommended in E.9.d, Supplemental Public Comment 4. Mr. Frank Warrens seconded the amendment to Motion 13. With respect to dropping item 3 of A-2.4, Mr. Moore noted testimony that Congressional action would be required and this cannot be presupposed. The amendment passed. Mr. Anderson voted no.

Ms. Vojkovich moved to amend Motion 13 by reinserting A-3 adaptive management as described on page 29, and item 4 in A-2.4 (page 29). Mr. Melcher seconded the amendment. Ms. Vojkovich commented that the range in the alternatives should be broad until analysis has been provided. The adaptive management provision can (1) help respond to transitional issues and provide incentives to reduce bycatch through different fishing practices, new gear designs, etc.; (2) help address some community issues such as maintaining infrastructure and drawing fishermen into a port to establish port capacity; and (3) provide an “insurance mechanism” to deal with uncertainty. The QP will flow through the LE fleet, therefore the amount of the allocation designated for this program will not go unused. At this time, the alternative should cover all sectors, however, if the analysis shows that this creates a problem or does not serve its intended purposes with respect to the whiting fleet, that can be changed. This program may also serve agency public trust responsibilities that go beyond the needs of the fishing fleet.

Mr. Moore moved to amend Ms. Vojkovich’s amendment by modifying the first phrase of the adaptive management section (Section A-3, page 29) by replacing “In each of the first 10 years of the program” with “in each year of the program.” Mr. Warrens seconded the amendment. Mr. Moore stated he was not certain he would support adaptive management and expressed concern about the number of provisions being added for analysis. Nevertheless, he believed that the 10-year sunset provision was too short,

particularly in light of the testimony indicating that a similar program in Canada is going strong and of continued utility after 10 years. Mr. Lockhart concurred. Dr. Hanson, expressed concern that the program would impose up to a 10% tax on the industry that would not necessarily fall equally on everyone, that when the set aside is reallocated out to the fishers some will get less while others get more, and that the allocation process may require a two to three meeting process and involve multiple types of incentive programs. Mr. Lockhart disagreed with characterizing the program as a 10% tax, since some, most, or all of the 10% will flow back to the fishermen. With respect to process, while Mr. Lockhart was concerned with the burden that might be associated with some of the incentive programs that had been suggested, there were also some that might be relatively simple to implement and not require revision during every management cycle (for example bycatch reduction incentives). It was noted that Dr. Hanson's comments applied more to Ms. Vojkovich's motion than Mr. Moores. Mr. Moore's amendment passed.

On Ms. Vojkovich's amendment, Mr. Myer said he would vote no because the tax should not be on the whiting industry especially if it is not specified that the amounts withheld go back into the sector from which it came. Ms. Vojkovich's amendment passed. Dave Ortmann and Dale Myer voted no.

Mr. Anderson noted that on page 44 the main motion included 3 different landing history periods that would replace the "date range to be determined" and no basis had been provided for the range of dates. He noted his opposition to the amendment to the motion was based on the lack of information on the implications of the ranges provided. Mr. Moore noted that the alternatives had been developed through an industry process and at this time he did not have more information on the rationale for the range.

Motion 13 passed.

Dr. Hanson moved (Motion 14), that the Council

Move forward for analysis the recommendations provided in the following sections of the Supplemental TIQC report (E.9.c):

- "Provide Options for Management of Bycatch Pools" (page 2, applies to IFQ alternative)
- "Apply Bycatch Pools Only to At-sea Sectors Under the Three Sector Option" (page 2, applies to IFQ alternative)
- "Move Forward With Consideration of Electronic Logbooks and Split Loads (A-2.3.1)" (page 3, applies to IFQ alternative)
- "Allow Separation of the Whiting Co-op Endorsement from the Permit" (page 5, applies to co-op alternative).

And, adopt the following recommendations from the GAC Report, E.8.b:

- Bring back for consideration an option that would establish in advance the mechanism for creating or shifting the boundary of area specific quota shares (page 3)
- Move forward with analysis of the proxy species/bycatch approach for allocating overfished species and request GMT and SSC review (page 4)
- Develop options for reallocation of QS when species are rebuilt or declared overfished (page 4)

Mr. Lockhart seconded Motion 14.

Mr. Anderson moved to amend Motion 14 to include the recommendations of the GMT (supplemental GMT Report 2).

- Analyze an alternative that includes a minimum holding requirement for constraining overfished species with a specific area component as well as an opportunity to provide for pooling.

- Analyze an alternative, specific to the directed Pacific whiting fishery, that issues IFQs for whiting but not for overfished species. Allow overfished species to be managed in a pool, accessible by all whiting sectors or as a pool for each whiting sector.
- Analyze an adaptive management proposal, consistent with the goals of the fishery management plan.
- Analyze the allocation of Pacific halibut bycatch quota based on a bycatch rate with depth and latitude divisions.
- Analyze allocating overfished species based on a bycatch rate (proxy species allocation).

Mr. Cedergreen seconded the amendment to Motion 14. Mr. Anderson noted that some had already been picked up in previous motions but he wanted to make sure they were all in.

Mr. Moore moved to amend Mr. Anderson's amendment by incorporating the TIQC recommendation to extend time for the coverage of catch when a fisherman is within the QP carryover limits (page 3 of Supplemental TIQC, Report E.9.c). Mr. Myer seconded the amendment. Mr. Moore's motion to amend passed.

Mr. Anderson's amendment passed.

Mr. Anderson, noted that he would not move to amend the motion but that he does concur with GMT Report E.9.c which recommends in part that the TIQ program incorporate area management tools currently in use and continue to pursue data and research informing spatial management.

Mr. Seger asked whether Dr. Hanson's intent was to put the provisions on splitting loads and electronic logbooks back into the program or to pursue them in a separate process? Dr. Hanson said it could be a separate process but that the intent is that they be in place when the program is implemented, this was general guidance as provided to cleanup the options. Motion 14 passed as amended.

Dr. Hanson moved and Ms. Vojkovich seconded Motion 15 (Agenda Item E.9.e, Supplemental Motion) and requested a response by November at the latest, ideally September. Mr. Lockhart noted time constraints and workload may limit NOAA GC's ability to respond. Ms. McCall noted that legal issues relative to the alternatives had been under discussion and guidance provided but that more definitive answers had not been provided because the alternatives were still in flux. They are looking at the whole program, and in particular the co-op proposals, to determine whether the needed authority exists under the MSA and whether there are non-MSA issues of concern, such as anti-trust. She asked about the need for formal written response and commented on the degree of internal review that would be required for such a response. She also noted that she would have posed questions differently from the way they were presented in Dr. Hanson's motion. Dr. Hanson noted that this guidance will be important, whether or not it was a formal written response. He asked that a response be provided for the September meeting and advice provided at that time as to whether some of the questions should be asked differently or whether other questions should be asked. Motion 15 passed.

With respect to Mr. Daspit's Optimum Species-Harvesting Unified Allocation (OSHUA) plan, and his concern about the absence of GMT response, Mr. Anderson noted the GMT takes their workload guidance from the Council. Additionally, Mr. Anderson noted he had reviewed the OSHUA plan very carefully, that some components are being picked up in the alternatives going forward for analysis, and that other components are not worthy of moving ahead. He thought there are some innovative pieces that have merit and may be included as part of future management strategies.

## **E.10 Final Consideration of Inseason Adjustments (if Needed)**

### **E.10.a Agenda Item Overview (06/15/07; 8:10 am)**

Mr. DeVore provided the agenda item overview.

### **E.10.b Report of the GMT**

Ms. Kelly Ames provided Agenda Item E.10.b, Supplemental GMT Report.

Ms Culver asked if a start date of August 1 is proposed and Ms. Ames said yes. Ms. Culver asked how long these DTL limits would continue and Ms. Ames said they would continue until the GMT recommends a change.

### **E.10.c Agency and Tribal Comments**

None.

### **E.10.d Reports and Comments of Advisory Bodies**

#### GAP Report

Mr. Gerry Richter provided a brief oral report on behalf of the GAP. The GAP concurred with the GMT recommendation and thanked the GMT for reconsidering this inseason adjustment.

Chairman Hansen asked what DTL limit increase would trigger a significant effort shift to the Conception area and Mr. Richter responded this limit increase is minor and would occur later in the season. Therefore, this adjustment is not believed to result in a significant effort shift to the south.

### **E.10.e Public Comment**

None.

### **E.10.f Council Action: Adopt or Confirm Final Adjustments to 2007 Groundfish Fisheries**

Mr. Moore moved and Ms. Culver seconded a motion (Motion 16) to adopt a sablefish trip limit of 350 lbs per day, or one landing of 1,050 lbs per week, for the open access fishery in the Conception Area (south of 36° N latitude) beginning August 1 as presented in Agenda Item E.10.b, Supplemental GMT Report.

Motion 16 carried on a unanimous voice vote.

## **E.11 Amendment 15: American Fisheries Act Issues**

### **E.11.a Agenda Item Overview (06/15/07; 8:16 am)**

Mr. Burner provided the agenda item overview. Mr. Myer pointed out that on page 11 of the draft EA (Agenda Item E.11.b, Attachment 1) the following editorial changes need to be made to reflect the motion passed in April:

- For motherships (two alternative definitions for analysis) as:
  - having ~~caught and processed~~ received at least 1,000 mt of Pacific whiting in any one qualifying year; or
  - having ~~caught and processed~~ received at least 1,000 mt of Pacific whiting in any one qualifying year subsequent to December 31, 1996.

**E.11.b Alternatives Analysis Report**

Ms. Gway Kirshner and Ms. Kelly Ames explained Agenda Item E.11.b, Supplemental ODFW Report and Agenda Item E.11.b, Supplemental Attachment 4.

Mr. Lockhart reviewed a table in Agenda Item E.11.a, Supplemental NMFS Report, showing a list of vessels registered for use with both West Coast groundfish limited entry permits and AFA permits; and a draft timeline for Federal implementation of Amendment 15.

Mr. Lockhart read Agenda Item E.11.b, Attachment 3, NMFS Report, on analytical needs under the National Environmental Policy Act. He noted the NMFS report was generated by a new internal NMFS process. One result of the internal NMFS scoping process is a recommendation that the alternatives for Amendment 15 be analyzed by an EA rather than an EIS and he stressed the importance of developing a strong record and clear purpose and need statement.

**E.11.c Reports and Comments of Advisory Bodies**

Ms. Ames provided Agenda Item E.11.c, Supplemental GMT Report. Mr. Dan Waldeck provided Agenda Item E.11.c, Supplemental GAP Report.

**E.11.d Public Comment**

- Mr. Craig Cochran, F/V Bay Islander, Newport, OR
- Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR
- Mr. Mike Hyde, American Seafoods, Seattle, WA
- Mr. Brent Paine, United Catcher Boats, Seattle, WA
- Mr. Chris Garbrick, F/V Mark I, Seattle, WA
- Mr. Mark Cooper, Cooper Fishing, Inc., Toledo, OR
- Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA
- Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA

**E.11.e Council Action: Adopt AFA Alternatives for Public Review**

Mr. Melcher moved and Mr. Warrens seconded a motion (Motion 17) to adopt Agenda Item E.11.e, Supplemental ODFW Motion.

**MOTION: OREGON DEPARTMENT OF FISH AND WILDLIFE SUPPLEMENTAL REPORT ON THE AMENDMENT 15 DRAFT ENVIRONMENTAL ASSESSMENT**

The Oregon Department of Fish and Wildlife (ODFW) has reviewed the Purpose and Need Statement and the proposed alternatives limiting participation in the Pacific whiting fishery contained in the Amendment 15 Draft Environmental Assessment (Agenda Item E.11.a, Attachment 1). ODFW offers the following recommendations:

*Review the proposed action and the purpose and need for such action*

ODFW recommends adopting Purpose and Need Statement 2, as contained in Agenda Item E.11.b, Supplemental ODFW Report, Table 1, adding the specificity of implementation prior to the 2008 Pacific whiting fishery. The recommended Purpose and Need Statement is as follows:

“The proposed action is to develop conservation and management measures to protect the west coast non-tribal Pacific whiting fishery and the participants in the fishery from adverse impacts caused by the AFA or by any fishery cooperatives in the directed pollock fishery and non-AFA vessels; specifically vessels with no sector-specific historical participation in the Pacific whiting fishery with the goal of implementing the recommended measures prior to the start of the 2008 Pacific whiting fishery.”

This purpose and need statement, specific to the Pacific whiting fishery and encompassing both AFA and non-AFA-permitted vessels is consistent with the Magnuson-Stevens Act requirements and it fulfills the Council’s goal of preventing conservation and socio-economic harm in the fishery. This protection is needed as a stop-gap measure to maintain consistency in the fishery and is intended to be in place until such time as a program to rationalize the fishery is implemented.

*Review the range of alternatives and modify as necessary*

The alternatives adopted at the April 2007 Council meeting do not address non-AFA-permitted participation in the Pacific whiting fishery. To address this portion of the fishery, and to meet the Purpose and Need Statement recommended previously, ODFW recommends the following range of alternatives be included for analysis (Table 1):

Table 1. Proposed alternatives for analysis in the Amendment 15 Environmental Assessment.

Alternative 1 (No action) Status quo	Alternative 2A (2005 season) Historical sector-specific participation	Alternative 3A (2006 season) Historical sector-specific participation
Do not limit participation in the Pacific whiting fishery	January 1, 1994 – January 1, 2006 for catcher vessels, catcher-processors and motherships	January 1, 1994 – January 1, 2007 for catcher vessels, catcher-processors and motherships
	2B (2005 season) Sector Allocation Date	3B (2006 season) Sector Allocation Date
	December 31, 1996 – January 1, 2006 for catcher-processors and motherships	December 31, 1996 – January 1, 2007 for catcher-processors and motherships

Mr. Melcher noted that based on the Council's earlier discussions and public record regarding the temporary rule limiting participation in the current Pacific whiting season, it seems clear that the scope of the action considered under Amendment 15 should be broadened to include all vessels, not just those permitted under the AFA and therefore he ruled out Purpose and Need Statement 1. Additionally he ruled out Purpose and Need Statement 3 because, based on public comment, he felt there was no imminent risk of vessels entering the non-whiting groundfish trawl fishery and that Purpose and Need Statement 2 would adequately address such concerns.

Mr. Melcher stated the choice of qualifying years was made to be consistent with earlier Council action and that he did not include the definitions of significant participation in the motion to be consistent with the temporary rule issued by NMFS to limit participation in the 2007 season.

Mr. Moore asked if the motion's reference to the Pacific whiting fishery specifically meant the directed Pacific whiting fishery. Mr. Melcher confirmed his intent was to only consider landings in the directed fishery and not those in any other fishery such as incidental landings in other groundfish trawl fisheries.

Mr. Moore asked about the narrowing of the alternatives as presented in the ODFW Report. Mr. Melcher felt the range of alternatives in the motion adequately met the purpose and need for the action and that the qualifying dates in the omitted alternatives were tied to control dates the Council implemented in response to the AFA and because the proposed action has been broadened to all vessels, he was not compelled to include them.

Mr. Myer stated he and some during public comment felt strongly about defining significant historic participation and moved to amend the main motion to include the previously corrected definitions beginning on the bottom of page 11 of the EA (Agenda Item E.11.b, Attachment 1) as listed below. Mr. Cedergreen seconded the amendment.

“Significant historic participation” is defined:

- For catcher/processors (two alternative definitions for analysis) as:
  - a. having caught and processed at least 1,000 metric tons (mt) of Pacific whiting in any one qualifying year; or
  - b. having caught and processed at least 1,000 mt of Pacific whiting in any one qualifying year subsequent to December 31, 1996.
- For motherships (two alternative definitions for analysis) as:
  - a. having received at least 1,000 mt of Pacific whiting in any one qualifying year; or
  - b. having received at least 1,000 mt of Pacific whiting in any one qualifying year subsequent to December 31, 1996.
- For catcher vessels in the shore-based or mothership fishery (two alternative definitions for analysis) as:
  - a. having landed at least 500 mt of Pacific whiting in any one qualifying year; or
  - b. having landed at least 1,000 mt of Pacific whiting in any one qualifying year .

Mr. Myer stated that defining significant historic participation is an important part of the proposed motion and that the analysis of these definitions will be greatly benefited by analyses already being conducted under the trawl rationalization process.

Mr. Lockhart asked how inclusion of these definitions better addresses the purpose and need statement in the main motion. Mr. Myer noted that in 1997 regulations were implemented that divided the fishery into the three sectors and, in addition, that action provided a definition of a mothership and prohibited vessels acting as catcher/processors from crossing sectors and participating in the shoreside or mothership sector. Mr. Myer felt that without defining historic participation, the door could be opened to allow vessels to cross sectors again even though their historic participation levels in some sectors is quite small. Including definitions of significant participation in the alternatives would allow the Council to consider additional constraints on the fishery and stay consistent with current regulations.

Ms. Vojkovich asked Mr. Myer if these participation levels are to be applied to both time periods or just for the time periods beginning in 1994? Mr. Myer said it would be best if it was applied to all time periods to give us the broadest analytical results for decision making.

Mr. Burner asked for clarification on the necessity of the “b” alternative definitions under the catcher/processor and mothership definitions because, unlike the alternatives approved in April, the alternatives in the main motion include varying start dates for the alternative qualifying periods. Mr. Myer agreed the “b” sub-options are unnecessary.

Mr. Melcher confirmed with Mr. Myer that his motion includes the historic participation definitions as presented for the catcher vessel sector.

Mr. Moore asked if adequate data exists to analyze participation levels for catcher/processors and motherships in the earlier years of the proposed qualifying periods (1994-1996). Mr. Lockhart said the data after 1996 is better data than what is available for the earlier years. Mr. Moore asked if the lower quality data could result in excluding or including participants based on poor information. Dr. Freese said there is information available for all of the vessels that participated since 1994. The data quality issues mostly involve the catcher vessels in the mothership sector resulting in estimates of total catch for the early years that differ by about 1 to 2 percent. Dr. Freese did not think the data issues would effect an analysis of who does and does not meet the participation criteria.

Mr. Moore asked if including the historic participation definitions significantly adds to the analytical burden or the required timeframe given the data issues. Mr. Lockhart said the easy part is working with the existing database and finding out which vessels meet this participation criteria. He said the analysis would get more complicated due to data limitations as additional analyses are requested.

Mr. Melcher asked if the analysis of these participation definitions is easier for the catcher/processors and the motherships than for the catcher vessels? Dr. Freese reported the analysis is equally difficult for all three sectors.

Dr. Hanson noted that Mr. Myer’s amendment included the participation definitions for the catcher vessel sector and an amendment would be required to remove them.

Mr. Moore made an amendment to Mr. Myers amendment, to delete the bullet points on page 12 of the EA (Agenda Item E.11.b, Attachment 1) that reference catcher vessels. Mr. Warrens seconded the amendment.

Mr. Moore stated he understands Mr. Myer’s concerns, but given the data for the catcher vessels in the earlier years is of poorer quality than for the other sectors he is uncomfortable including catcher vessels. Mr. Moore voiced concern about making decisions on poor quality data and delaying the implementation of this important matter.

Chairman Hansen asked for vote on Mr. Moore's amendment. Ms. Vojkovich voted no. Mr. Moore's amendment passed.

Ms. Culver moved to amend Mr. Myer's amendment to remove suboptions "b" under alternatives 2 and 3 on page 11 of the EA (Agenda Item E.11.b, Attachment 1). Mr. Melcher seconded the amendment to Mr. Myer's amendment.

Chairman Hansen asked for vote on Ms. Culver's amendment. Ms. Culver's amendment passed unanimously.

Chairman Hansen asked for vote on Mr. Myer's amendment. Mr. Myer's amendment passed unanimously.

As a result of these two amendments the motion included the following definitions:

"Significant historic participation" is defined:

- For catcher/processors (two alternative definitions for analysis) as:
  - a. having caught and processed at least 1,000 metric tons (mt) of Pacific whiting in any one qualifying year; or
  - b. ~~having caught and processed at least 1,000 mt of Pacific whiting in any one qualifying year subsequent to December 31, 1996.~~
- For motherships (two alternative definitions for analysis) as:
  - a. having received at least 1,000 mt of Pacific whiting in any one qualifying year; or
  - b. ~~having received at least 1,000 mt of Pacific whiting in any one qualifying year subsequent to December 31, 1996.~~
- ~~For catcher vessels in the shore based or mothership fishery (two alternative definitions for analysis) as:~~
  - a. ~~having landed at least 500 mt of Pacific whiting in any one qualifying year; or~~
  - b. ~~having landed at least 1,000 mt of Pacific whiting in any one qualifying year.~~

Ms. Culver asked for clarification regarding only considering landings in the directed whiting fishery and asked what threshold would be used to differentiate between directed and incidental fisheries. She recalled the cutoff that was used in recent years was 4,000 lbs and in prior years it was 10,000 pounds. She asked if the intent was to use historic, year-specific regulations to determine historic participation in the whiting fishery.

Mr. Melcher said the intent of the motion is to capture the primary directed whiting fishery. He deferred to NMFS on how that is defined. He continued that if there has been changes in the definition over the years, it would be appropriate to consider that in the analysis.

Mr. Lockhart asked Ms. Culver why one value, say 4,000 pounds, could not be used. Ms. Culver explained that if 10,000 pounds was the actual threshold in a qualifying year and the analysis used 4,000 pounds, vessels would qualify for the directed fishery in the analysis of earlier years even though they did not qualify for the directed fishery under the regulations in place for that particular fishing year.

Mr. Lockhart agreed the analysis needs to consider year-specific regulations when defining participation in the directed fishery.

Mr. Lockhart asked Mr. Melcher if the intent of the motion would be to only limit participation in the directed fishery or if it was broader than that. Mr. Melcher said his intent is to capture what was done in the temporary rule for 2007 and limit only the directed fishery. Mr. Lockhart confirmed with Mr. Melcher that sector-specific participation is intended to mean a vessel may only qualify to participate in a sector for which it meets the historic qualification criteria, a vessel cannot qualify for one sector based on its history and then cross into another sector for which it has no qualifying history.

Mr. Lockhart asked if it is the Council's intent that this proposed action would be an interim measure until such time a rationalization program for the trawl fleet was implemented. Mr. Melcher stated this proposed action is interim and a rationalization program would supersede this action when and if one is implemented.

Mr. Lockhart referenced the last line in the proposed purpose and need statement regarding the importance of completing this action in time for the 2008 season and asked for some additional discussion of why this could not wait until the outcome of the rationalization efforts was known. Mr. Melcher said we have heard in public testimony today, and at the last several Council meetings, that the whiting fishery is coming under more and more pressure for many reasons, including improving markets. It seems clear, based on testimony from all of the sectors, that there are vessels waiting to see how this Council acts on this matter and waiting to see how fisheries progress in Alaska, with the intent of entering the 2008 fishery if we don't have something in place. The Council felt this way about the 2007 fishery and twice recommended temporary rules be implemented to protect the fishery and the resource. Mr. Melcher believes the Council feels the 2008 season could experience equal or greater problems than those which faced the 2007 season.

Ms. Culver agreed with Mr. Melcher's comments relative to potential problems in 2008. She noted that the importance of completing this action by the 2008 season is evident in the range of alternatives being considered. The purpose and need statement is addressing the goal of completing the action by 2008 which may be preventing us from exploring a broader range of alternatives.

Chairman Hansen asked for a vote on Main Motion 17. Main Motion 17 passed unanimously as amended.

Dr. McIsaac discussed the matter of confidential data and the proposed analysis of the alternatives planned for the summer. An inter-agency workgroup has been established for this and asked the principals of the workgroup if the analyses asked for in the motion could be completed given the timeframe at hand and the confidential nature of some of the requisite data. Mr. Lockhart said he felt the analyses could be done over the summer and stated NMFS will work with NMFS General Council to ensure confidentiality rules are followed and problems are resolved. Regarding the availability of resources, Mr. Lockhart noted the Council now has one additional economist and NMFS Northwest Regional Office has one less. Dr. McIsaac noted the Council did have the pleasure of introducing Mr. Burden earlier in the week and stated Mr. Burden, along with most of the economists in this process, will primarily be working on rationalization issues. Dr. McIsaac further noted there is a possible Oregon candidate and Council staff will continue to explore options for completing the socioeconomic aspects of the analysis. Dr. McIsaac said he would like to leave this meeting with the understanding that those folks on the workgroup will continue work on the EA with the goal of meeting the August deadline for the September briefing book.

Mr. Melcher clarified that Dr. McIsaac's reference to Oregon assistance in the economic analysis would be a hired contractor.

## **F. Coastal Pelagic Species Management**

### **F.1 NMFS Report (06/13/07; 11:18 am)**

#### **F.1.a NMFS Activity Reports**

Mr. Mark Helvey provided the report and referenced Agenda Item F.1.a, NMFS Report. Mr. Helvey reported that as of May 23, 2007 the Pacific mackerel fishery had landed 7,500 mt of the 19,345 mt harvest guideline and the Pacific sardine fishery had landed 24,000 mt of the 152,564 mt harvest guideline.

Since the last Council meeting, NMFS has engaged in several regulatory actions. Regarding Amendment 12, the amendment was approved and the letter of approval is included as Agenda Item, F.1.a, Attachment 1. Regarding Amendment 11 covering sardine allocation, the final rule regarding reporting requirements for sea otter interactions has published and is included as Agenda Item F.1.a, Attachment 2.

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

None.

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

None.

#### **F.1.d Council Discussion**

None.

### **F.2 Pacific Mackerel Stock Assessment and Harvest Guideline for 2007-2008**

#### **F.2.a Agenda Item Overview (06/13/07; 11:22 am)**

Mr. Mike Burner provided the agenda item overview.

#### **F.2.b NMFS Report**

Dr. Emmanis Dorval provided a PowerPoint presentation on the current Pacific mackerel stock assessment that is available on the Council's website at:

[http://www.pcouncil.org/bb/2007/0607/F2b\\_NMFSPPPT\\_Sup.pdf](http://www.pcouncil.org/bb/2007/0607/F2b_NMFSPPPT_Sup.pdf)

Mr. Anderson asked about the quality and source of the data used to estimate biomass in the 1920's and 30's. Dr. Dorval stated that fishery and biological data was collected back then by both CDFG and the CalCOFI program. This data is useful for informing the model, but has limitations. Mr. Anderson further noted that the model recommended by the STAT and STAR Panel projects higher biomass levels than

other models used in recent years and asked about the STAT's degree of confidence in the new model. Dr. Dorval stated that the STAT believes the new assessment produces the best estimates and noted that recruitment variability in the previous assessments was constrained to values well below those you would expect for a very productive pelagic stock like Pacific mackerel. The STAT and the STAR were in agreement that the recruitment variability in the model should be increased.

Ms. Vojkovich asked if the harvest guideline as presented and calculated using the harvest control rule represents the acceptable biological catch (ABC). Mr. Burner confirmed that the harvest control rule calculates the highest harvest target available for management which also serves as the ABC. The FMP allows the Council to set harvest guidelines at or below the ABC.

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

Dr. Bob Conrad provided Agenda Item F.2.c, Supplemental SSC Report. Dr. Andre Punt fielded technical questions.

Mr. Anderson asked about the limited data and the lack of a reliable index of abundance noted in the statement. Dr. Punt stated that of the three indices evaluated by the STAR Panel, the CPFV index informs the early years of the time series and all three have limitations for use in recent years because spotter pilot surveys are diminishing, the CalCOFI survey is not informative about larval production in Mexico where the bulk of production is assumed to occur, and the CPFV index is fishery-dependent and catches relatively few Pacific mackerel. Dr. Punt noted that the biomass estimates in the 1920's are very uncertain, but they do not have direct bearing on the formula for the current recommendations on the harvest guideline.

Dr. Sam Herrick provided Agenda Item F.2.c, CPSMT Report.

Ms. Vojkovich referenced the CPSMT recommendation that the 2007-08 harvest guideline not exceed 40,000 mt and asked Dr. Herrick if the relationship of harvest guideline to the overall biomass estimate for the 2007-08 fishing season is comparable to last year's management measures. Dr. Herrick stated that he has not directly compared the two seasons in this way, but in his estimation the relationship of the harvest guideline to the overall biomass effort in the current fishery is similar to that recommended for next season.

Mr. John Royal and Mr. Mike Okoniewski provided Agenda Item F.2.c, CPSAS Report. Mr. Okoniewski added that it is his understanding that upcoming season in Japan is also anticipated to be improved which could limit the marketability of U.S. landings.

Ms Vojkovich noted the fishery has not taken the full harvest guideline in recent years and asked about the discussion within the CPSAS regarding the harvest recommendations for the next season, specifically any speculations on the markets for Pacific mackerel. Mr. Burner recalled the CPSAS discussion regarding markets and availability of Pacific mackerel and stated the value of 40,000 mt is mentioned in the FMP, not as a maximum catch value, but rather as an estimation of what the market can bear. Several CPSAS members felt the 40,000 mt value was outdated and not accurate and discussed harvest guideline recommendations above the 40,000 mt level. The CPSAS noted Pacific mackerel landings are highly variable due to seasonal migrations off-shore, the price of fuel, and the availability of market squid. Because the CPSAS generally felt it is not likely the directed fishery will attain the 40,000 mt and the fact that the Council could release additional fish to the directed fishery as a routine action in the spring, the CPSAS settled on the recommendation of 40,000 mt.

Mr. Royal concluded with an emphasis on the importance of working with Mexico on joint management of Pacific mackerel and noted there are strong indications that the tuna net-pen operations in Mexico are expanding.

#### **F.2.d Public Comment**

None.

#### **F.2.e Council Action: Approve Stock Assessment and Harvest Guideline**

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 8) to accept the stock assessment for Pacific mackerel as shown in Agenda Item F.2.b, Attachment 1 and adopt an ABC of 71,629 and a harvest guideline for the directed fishery of 40,000 mt for the 2007-2008 Pacific mackerel season beginning on July 1, 2007. Also, provide guidance to NMFS that, in the event the directed fishery reaches 40,000 mt, close the directed fishery and revert to an incidental-catch-only fishery. Under this incidental-catch-only fishery, implement a 45 percent incidental catch allowance when Pacific mackerel are landed with other CPS, except that up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Ms. Vojkovich said she did not think there is a risk associated setting the harvest guideline at 40,000 mt even though there is uncertainty in the new version of the model. Given the performance of the fleet in the past few years, this harvest guideline may appear unnecessary, but the FMP provides guidance in this matter and when the fish are available we have taken over 40,000 mt at least once in the past ten years. Ms. Vojkovich supported the proposed efforts to explore new modeling platforms and methodologies in September with the hopes of improving next years' stock assessment update and future management actions by the Council.

Motion 8 passed.

Ms. Vojkovich noted the issue of the lack of data from Mexico is always in our reports and is discussed annually. The Council has sent letters to NMFS on this matter and she felt it would be appropriate to convey these concerns to the U.S. Department of State. Specifically, she noted the letter should include recommendations in the STAR Panel report (Agenda Item F.2.b, Attachment 2) particularly the recommendations in Section 5.1 and Section 6.F.

Mr. Helvey said NMFS has had discussions on this issue and is in agreement with the direction given by Ms. Vojkovich.

Mr. Burner said Council staff stated that due to the uncertainty in Pacific mackerel season expectations, he does not, at this time, recommend the Council plan a formal review of the fishery at the March or April 2008 Council meetings. Council and NMFS staff will track the fishery and inform the Council if such a review becomes warranted.

**ADJOURN**

The 189<sup>th</sup> Council meeting was adjourned at 2:53 pm on Friday, June 15, 2007.



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**Council Chairman**

**September 14, 2007**

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**Date**