

MINUTES

Pacific Fishery Management Council

June 6-13, 2008 (194th Meeting)

Crowne Plaza Hotel

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A. Call to Order

A.1 Opening Remarks, Introductions

Don Hansen, Chair, called the 194th meeting of the Pacific Fishery Management Council to order on Sunday, June 8, 2008 at 9 am. A closed session was held from 8 to 9 am.

A.2 Roll Call

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

Mr. Phil Anderson (Washington State Official)
Mr. Mark Cedergreen (Washington Obligatory)
Mr. Brian Corrigan (US Coast Guard, non-voting)
Ms. Kathy Fosmark (California Obligatory)
Mr. Donald Hansen, Chairman (At-Large)
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region)
Mr. Jerry Mallet (State of Idaho Official)
Mr. Rod Moore (At-Large)
Mr. Dale Myer (At- Large)
Mr. Dave Ortmann, Vice Chairman (Idaho Obligatory)
Mr. Tim Roth (US Fish and Wildlife Service, non voting)
Mr. David Sones (Tribal Obligatory)
Ms. Marija Vojkovich (State of California Official)
Mr. Frank Warrens (Oregon Obligatory)
Mr. Gordon Williams (State of Alaska Official, nonvoting)
Mr. Steve Williams (State of Oregon Official)
Mr. Dan Wolford (At-Large)

The following Council member was absent during the Sunday and Monday sessions of the Council meeting:

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

The following Council member was absent from the entire meeting:

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

A.3 Executive Director's Report

Dr. McIsaac walked the Council through the informational reports found in the briefing book:

- Informational Report 1, Letter to Chairman Hansen from NMFS Regarding Most Recent Stock Assessment for North Pacific Albacore
- Informational Report 2, NOAA Proposes Rule to Prevent Commercial Harvesting of Krill (News Release)
- Informational Report 4, Letter to Dr. McIsaac from Stephen R. Gittings, Regarding PFMC Input on the OCNMS Condition Reports

- Supplemental Informational Report 5, State Marine Protected Areas Along North Central Coast of California to be Considered by the California Fish and Game Commission

Mr. Gordy Williams and Mr. Phil Anderson elaborated on Informational Report 3, Press Release from Pacific Salmon Commission - New Bilateral Agreement. The new agreement makes significant catch reductions in some Alaska and Canadian fisheries and provides potential funding for modeling and development of mark-selective Chinook fisheries for Canada. The reductions in harvest of the north migrating stocks are to be passed on to spawning escapements.

A.4 Council Action: Approve Agenda

The Council unanimously approved the agenda as shown in Agenda Item A.4., June Council Meeting Agenda, with the following change: between Agenda Item I.1.a, and I.1.b, insert a report from the Monterey Bay National Marine Sanctuary. (Motion 1)

B. Open Public Comment

B.1 Comments on Non-Agenda Items

B.1.a Public Comment

Mr. Peter Flournoy, International Law Offices, San Diego, CA. Spoke about the negative impact of high fuel costs on the fishing industry. He also expressed concern that the California Legislature is putting out resolutions that are mischaracterizing the Council's actions. He felt that this undermines the Council's credibility and asked for some action by NMFS or the Council to correct it.

B.1.b Council Discussion of Comments as Appropriate

[As recorded later, Mr. Mark Helvey reported that NMFS was addressing the issue of misinformation being used by the California Legislature with a letter.]

C. Administrative Matters

C.1 Future Council Meeting Agenda and Workload Planning (06/08/08; 10:04 am)

C.1.a Agenda Item Overview

Dr. McIsaac reviewed the attachments for this agenda item.

C.1.b Reports and Comments of Advisory Bodies

Dr. John Coon read Agenda Item C.1.b, CPSMT Report and Agenda Item C.1.b, Supplemental CPSAS Report. Mr. Wayne Heikkila provided Agenda Item C.1.b, Supplemental HMSAS Report.

C.1.c Public Comment

None.

C.1.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

Mr. Anderson noted the requests for a delay in reviewing the sardine allocation that the Council would need to act on at the end of the week. Ms. Vojkovich said she would like to have staff look at the proposed review date and ascertain when any proposed changes resulting from that review could be implemented.

Ms. Fosmark asked that the Council write a letter to the California Legislature explaining the work the Council has done and the science and data that supports the shallow-set longline (SSL) permit we approved. She also asked that copies of a letter from Heal the Bay be made available to the Council. Mr. Helvey said the letter on SSL is underway and will be shared with the Council in the next few days.

Dr. Coon referred the Council to the public comment letter from Diane Steele (in the briefing book) agreeing with the proposed delay in the sardine allocation review.

Ms. Fosmark asked if we could request an economic fuel study on US fisheries at this time due to the high cost of fuel and if it would be possible to be available in the near future. She will bring this issue up under HMS.

C.1 Future Council Meeting Agenda and Workload Planning (continued on Friday)

C.1.a Agenda Item Overview (06/13/08; 8:23 am)

Dr. McIsaac provided the agenda item overview; and a PowerPoint (on Council website) regarding implementation of Section 303(c) of the Magnuson-Act. He indicated this would be the subject of an agenda item at the September Council meeting. Recent court cases have found that there must be a formal process by which Council's confirm the validity of regulations ("deem them necessary or appropriate") to implement proposed plans or plan amendments.

Dr. McIsaac also briefed the Council on Supplemental Attachment 9 which describes the NOAA Fisheries Scientific Forum aimed at determining the reasons for the collapse of Sacramento fall Chinook and the decline of other West Coast stocks. The Council will receive a status report on the forum at the September Council meeting and a draft final report in March 2009.

Dr. McIsaac further noted Supplemental Attachments 6 (three meeting planning) and 8 (workload). For Supplemental Attachment 7 (September Council meeting), he noted that Mitchell Act EIS review and marine protected areas (MPAs) had been deleted. Additions included the "deeming process" and Central Valley Salmon Recovery Plan. He asked for further guidance on the issue of Washington Coastal Chinook stock status under the habitat agenda. Because he was proposing to move some agenda items from the November to the September Council meeting, he then moved to Supplemental Attachment 10 (November Agenda).

Based on the length of time required for trawl rationalization at this meeting, Dr. McIsaac noted that it is imperative to make as much time as possible available for the final trawl rationalization action at the November meeting. He asked the Council to consider moving the following items into the September agenda from November: the halibut abundance estimation methodology, and final action on groundfish exempted fishing permits (EFP) and stock assessment planning. He also suggested delaying action on the sardine allocation review (as recommended by the advisors), cancelling the Habitat Committee meeting and agenda item, delaying the Magnuson reauthorization issues to March, and canceling most of the highly migratory species agenda and MPAs.

C.1.b Reports and Comments of Advisory Bodies

Dr. McIsaac read Agenda Item C.1.b, Supplemental HC Report and Agenda Item C.1.b, Supplemental HMSAS Report.

C.1.c Public Comment

None.

C.1.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning (06/13/08; 8:50 am)

Council members worked with the Executive Director and Council staff on the agendas and workload priorities.

Mr. Lockhart stated that in September he would give a report on the status of ecosystem based management (EBM) and the budget outlook for it during the NMFS groundfish report.

Mr. Moore asked about delaying the start of the Legislative Committee (LC) meeting in September. Dr. McIsaac said that may be possible, but there are two significant bills out for review--HR 21 and the National Marine Sanctuary Act reauthorization. Mr. Moore stated that those issues would be well down the road by the September meeting and may take very little LC time.

Mr. Moore also asked about the need for final action on groundfish Amendment 22 (open access limitation)—he remembered something about delaying that till spring. Dr. McIsaac said that issue was still open and could be clarified after the GAC meeting in July.

Regarding the review of impacts on Washington Coastal Chinook, Mr. Sones clarified that all that was being asked for was for the STT to verify that Council area ocean fishery impacts were still less than 5 percent.

Mr. Anderson said that he believes the halibut abundance issue should be completed in September and there would be no need for it again in November. He also agreed that it may be possible to cancel the HC agenda item pending further consideration in September. Further, he agreed with moving the MSRA implementation measures in November to March and completing the groundfish EFPs and stock assessments in September.

Mr. Lockhart reported that with regard to the HMS agenda in November, item 4 (albacore options report) could easily be delayed and perhaps the routine management measures as well. Ms. Vojkovich expressed some concern with regard to input on the regional management actions, depending on how relevant to Council management the contemplated actions are.

Ms. Vojkovich recommended that in view of the advisory body comments, it was appropriate to postpone the sardine allocation review to next year and she also agreed with eliminating the MPA agenda items.

Mr. Hanson recommended we move Amendment 20 to early in the week in November.

Mr. Helvey spoke to the HMS agenda item regarding the advice to the regional management entities in November. He felt it would be good to leave it on as a placeholder. Otherwise the other items could be delayed.

Mr. Roth reported that the Mitchell Act EIS would not be complete until the end of the year at the earliest. He recommended it be listed on the March Council agenda as a contingent item.

C.2 Magnuson-Stevens Act Reauthorization Implementation (06/09/08; 1:24 pm)

C.2.a Agenda Item Overview

Mr. Burner provided the agenda item overview.

C.2.b NMFS Report

Mr. Steve Leathery NMFS NEPA Coordinator, and Mr. Sam Rauch, Deputy Director for NMFS Regulatory Programs, provided a Powerpoint presentation, available on the Council's website at: http://www.pcouncil.org/bb/2008/0608/C2b_SUP_NMFS_PPT1_0608.pdf

Dr. Kit Dahl provided the staff perspective report (Agenda Item C.2.a, Supplemental Attachment 1).

Ms. Jennifer Ise and Mr. Chris Wright provided a Powerpoint presentation, available on the Council's website at: http://www.pcouncil.org/bb/2008/0608/C2b_SUP_NMFS_PPT2_0608.pdf

There was significant dialogue regarding the management of west coast salmon fisheries and the application of the new MSA provisions.

Mr. Rauch noted that NMFS is not imposing annual catch limits (ACLs) on the Council, those standards are required by the U.S. Congress through the reauthorization bill. Recognizing the difficulties of applying the new standards to the unique nature of salmon management, NMFS requested an exemption for salmon. The final reauthorization bill included no such exemption. NMFS has provided a proposed mechanism for applying ACLs etc. to salmon and is seeking Council input and rationale on better ways to meet the requirements. Ms. Cooney added that, in the near future, the Council and its salmon advisors will need to review the proposed guidelines and discuss ways of developing management mechanisms like ACLs that may not exactly meet the definition of these management goals, but meet the standards of new law. She cited work on groundfish rebuilding as an example of situations where a different process was developed that met the protections required by statute, but did not meet all of the details in the regulations.

Dr. McIsaac asked about the Council request for extending the public comment periods for these two proposed rules. Mr. Rauch noted that an extension of the proposed rule on the revised environmental review procedures to include the Council's September meeting would likely be too great of an extension with too great of an impact in the rule making schedule. Regarding the comment period on the proposed National Standard 1 guidelines, such an extension would be much shorter and is more likely to be granted. NMFS plans to review the summer and fall meeting schedules of all eight Regional Councils before determining the details of any comment period extension.

C.2.c Reports and Comments of Advisory Bodies

Dr. Steve Ralston read Agenda Item C.2.c, Supplemental SSC Report.

C.2.d Public Comment

Ms. Julie Sherman, The Marine Fish Conservation Network, Portland, OR
Mr. Peter Huhtula, PMCC, Astoria, OR
Ms. Tara Stafford, Environment California, San Francisco, CA

C.2.e Council Action: Direct Planning and Action on New Requirements as Needed for Timely Implementation

Mr. Anderson suggested the Council members provide comments on the proposed rule on revised environmental review procedures (Agenda Item C.2.b, Attachment 1) to the Council Executive Director by July 15, 2008 with the understanding that this time line would allow for a Council response to NMFS by the August 12, 2008 deadline. He also recommended a similar mechanism for the proposed guidance on National Standard 1 with a deadline for Council comments to the Council Executive Director by August 15, 2008. This schedule is in response to the existing public comment deadline of September 8, 2008. If the Council-requested extension of this deadline is approved, the Council would have the opportunity to provide comments at the September Council meeting.

Mr. Moore said in regard to the ACL comments, the Council had submitted detailed comments during the scoping period in April 2007 and recommended that letter be reviewed. Mr. Burner said Council staff will revisit those recommendations and will redistribute the letter to Council members.

Ms. Vojkovich was concerned about the level of state involvement in either of these new requirements and said she was unclear about what additional workload and staffing the states may have to bear. She also asked whether NMFS was prepared to fund the implementation efforts associated with these new requirements. Mr. Rauch said depending on the resulting workload, there will be training etc., but NMFS cannot at this time commit to funding. NMFS is pursuing the matter and has requested such funding of Congress.

Ms. Vojkovich said she can certainly understand how NMFS will have a considerable need for additional funding for MSA implementation, but as we have seen with other Federal requirements, the additional burden on the states often goes unfunded or partially funded. She recommended a general acknowledgement of the situation and an increased consideration of state involvement when budgets are developed. Mr. Rauch did not want to appear to minimize the burden on the states. He reiterated that the new ACL requirements were imposed by the Congress and will involve a great deal of work by NMFS, the Councils, and the states. The NEPA process is supposed to be streamlined and be easier and should provide some workload savings. NMFS does appreciate the sacrifices the states make in support of Federal activities and NMFS will try to take that into account for budgetary purposes, but he could not make any promises.

Mr. Anderson expressed frustration with the way salmon management and the National Standard 1 guidelines are described in the proposed rule and in today's discussions. Through fishing limitations expressed in terms of exploitation rates, quotas, fishing season, etc. salmon is managed to meet conservation objectives and rebuild depleted stocks demonstrating that the intent of our current system meets the intent of the new law. These tools for salmon management are different than the mechanism we discussed today (overfishing levels, ABC, ACL, and annual catch targets) and in the proposed rule there seems to be some flexibility in how the Council might fit salmon management into the new standard, but in today's discussion it seems NMFS is of the position that the new requirements will work for salmon and is expecting the Council, the states, and the tribal co-managers to make it work. He agreed with Ms. Vojkovich that much of this burden will fall on the states and tribes.

Mr. Sones said he concurred with what the states have said and he felt that the current Council process meets many of the objectives intended by Congress. The burden will be fitting our existing system into the new process and terminology.

Mr. Burner confirmed with Mr. Rauch that the request for an extension on the public comment periods has been received by NMFS and no further Council action is necessary.

Mr. Burner noted that the Council Coordination Committee (CCC) is considering a combined response regarding the new environmental review procedures and that the deadlines for that process precede the current date of July 15, 2008 as recommended by Mr. Anderson. Mr. Anderson and Dr. McIsaac agreed that participating in the CCC effort was important and changed the date for Council comments from July 15 to July 1.

C.3 Update and Communication of Research and Data Needs (06/10/08; 4:45 pm)

C.3.a Agenda Item Overview

Mr. Mike Burner provided the agenda item overview.

C.3.b Reports and Comments of Advisory Bodies

Dr. Steve Ralston provided Agenda Item C.3.b, Supplemental SSC Report. Ms. Culver asked why the SSC statement did not address the comments of the CPSAS. Mr. Burner clarified that members of the SSC CPS Subcommittee attended the CPS meetings in May where the comments of the CPS advisory groups were incorporated into the draft. The full SSC was supportive of the CPS recommendations but did not include that conclusion in their statement because the draft has already been updated with those changes. Mr. Burner noted that Council action at this time is to approve a public review draft. Additional edits and priorities could be identified in September.

Mr. Mike Okoniewski provided Agenda Item C.3.b, CPSAS Report. Mr. Burner read Agenda Item C.3.b, Supplemental HMSMT Report, Agenda Item C.3.b, Supplemental HMSAS Report, and Agenda Item C.3.b, Supplemental SAS Report. Mr. Stuart Ellis provided Agenda Item C.3.b, Supplemental HC Report.

C.3.c Public Comment

Mr. Burner noted the public comment letters received for the briefing book.

Ms. Laura Pagano, NRDC, San Francisco, CA testified.

C.3.d Council Action: Adopt a Research and Data Needs Document for Public Review

Mr. Anderson moved and Mr. Myers seconded a motion (Motion 25) to adopt the draft research and data needs document for public review, as shown in Agenda Item C.3.a, Attachment 1, including the comments provided to the Council from the SSC, CPSAS, HMSMT, HMSAS, HC, and SAS; the California Wetfish Producers Association, the West Coast Seafood Producers and the comments from NRDC relative to climate change and ocean acidification.

Mr. Gordy Williams requested the improvements to the CWT program as recommended by the PSC be mentioned in the salmon chapter of the public review document (accepted as a friendly amendment by the maker/seconded).

Motion 25 passed unanimously.

C.4 Fiscal Matters (06/13/08; 8:05 am)

C.4.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

C.4.b Budget Committee Report

Mr. Jerry Mallet provided Agenda Item C.4.b, Supplemental Budget Committee Report.

C.4.c Reports and Comments of Advisory Bodies

None.

C.4.d Public Comment

None.

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

Mr. Warrens moved and Mr. Ortmann seconded a motion (Motion 45) to approve the report of the Budget Committee as shown in Agenda Item C.4.b, Supplemental Budget Committee Report. Motion 45 passed unanimously.

C.5 Membership Appointments and Council Operating Procedures (COP)

C.5.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview.

C.5.b Reports and Comments of Advisory Bodies

None.

C.5.c Public Comment

None.

C.5.d Council Action: Consider Changes to COP and Appoint New Advisory Body Members as Needed (Including Initial Groundfish Essential Fish Habitat Review Committee)

Mr. Steve Williams moved and Mr. Rod Moore seconded a motion (Motion 46) to appoint Ms. Cyreis Schmitt to fill the ODFW vacancy on the CPSMT. Motion 46 passed unanimously.

Mr. Lockhart moved and Ms. Fosmark seconded a motion (Motion 47) to confirm that Mr. Brian Hallman is reappointed to represent the IATTC on the HMSMT. When Mr. Hallman is not available, his designee will be Mr. Ricardo Belmontes. Motion 47 passed unanimously.

Chairman Hansen appointed the following people to the Ad Hoc Groundfish Essential Fish Habitat Review Committee (EFHRC):

NMFS Fisheries Science Centers—1 position each from NWFSC and SWFSC: Dr. Waldo Wakefield, NWFSC; and Ms. Mary Yoklavich, SWFSC.

NMFS Northwest Region—2 positions: Mr. Steve Copps and Mr. John Stadler.

Office of National Marine Sanctuaries—1 position: Mr. Ed Bowlby, Olympic Coast National Marine Sanctuary and his alternate is Ms. Karen Reyna, Gulf of Farrallones National Marine Sanctuary.

Scientists At-large—2 positions: Dr. H. Gary Greene and Dr. Chris Goldfinger.

Fishing Industry—2 positions, bottom trawl and non-trawl bottom gear: Mr. Brad Pettinger (bottom trawl) and Mr. Scott McMullen as his alternate; Mr. Bob Eder (non-trawl bottom gear) and Mr. Bernie Bjork as his alternate.

Enforcement – Mr. Dayna Matthews.

Conservation Organizations (changed from Scientists Affiliated with a Conservation Organization)—2 positions, Mr. Santi Roberts, and Ms. Megan Mackey.

Mr. Moore stated that while the scientist designation was removed from the conservation organization positions, the committee is a technical and not a policy committee. Therefore, he recommended that preference should be given in any future selections of conservation representatives to those that have some technical knowledge to apply to the position. Mr. Warrens agreed.

D. Highly Migratory Species Management (HMS)

D.1 Changes to Routine Management Measures for 2009-2010 Seasons (06/08/08; 10:35 am)

D.1.a Agenda Item Overview

Dr. Dahl provided the agenda item overview. Mr. Helvey discussed the contents of a May 21, 2008, letter sent from Mr. Rod McInnis to Mr. Don Hansen and included in the briefing book as Informational Report 1. The letter describes NMFS SWR plans to contract a study of potential management measures for the North Pacific albacore fishery and encourages the Council to plan for consideration of such measures in the future.

D.1.b Reports and Comments of Advisory Bodies

Mr. Craig Heberer provided Agenda Item D.1.b, Supplemental HMSMT Report. Several Council members asked questions about the availability of data on thresher shark fisheries.

Mr. Heikkila provided Agenda Item D.1.b, Supplemental HMSAS Report.

D.1.c Public Comment

Mr. Peter Flournoy, International Law Offices, San Diego, CA
Mr. Chip Bissell, American Albacore Fishing Association, Bonita, CA

D.1.d Council Discussion and Guidance on Initial Selection of Preliminary Proposals for Further Consideration

Mr. Moore asked Mr. Helvey about the letter included as Informational Report 1. He expressed concern about prioritizing work on developing management measures for the albacore fishery, considering the Council's workload on a range of issues. Mr. Helvey said NMFS is concerned about a range of issues impinging on the albacore fishery, including potential effort increases resulting from salmon closures and current negotiations over the U.S.-Canada albacore treaty. He hoped the contractors could consider the full range of these issues in developing concepts for future management. Mr. Moore responded by pointing out that the Council has already gone on record stating that the U.S. fishery is a small component of overall effort and further questioned the need for this work.

Ms. Culver asked about whether an FMP amendment or regulatory amendment would be required to implement any recommended measures. She suggested that this would not be an action subject to the biennial harvest specifications cycle. Mr. Helvey said that is up to the Council. Mr. Feder said that a limited entry proposal would likely require an FMP amendment. Ms. Culver emphasized the importance of using the Council process to consider any management responses implied by the contents of a white paper prepared by NMFS contractors. Mr. Helvey agreed.

Ms. Fosmark reflected on the lack of support among fishery participants for a limited entry program. She said such an initiative was premature and would disadvantage the U.S. in negotiations over the U.S.-Canada albacore treaty and in other international forums.

Ms. Vojkovich pointed out that the FMP does not outline a strategy for managing the albacore fishery, considering the range of issues currently in play. She suggested that the report prepared by the NMFS contractors could facilitate a comprehensive strategy for more effective participation in international forums with respect to albacore management, rather than the more narrowly focused question of limited entry. The HMSMT should assist in developing such a strategy.

Mr. Steve Williams sought clarification that any white paper does not presuppose any action by the Council but simply helps to inform on issues and potential responses. Mr. Helvey said that NMFS thinks the Council should take action, but Council action would not be required by the report.

Ms. Culver echoed Ms. Vojkovich's recommendation to use this report to develop a broader strategy for albacore management. But she said that the report should identify methods for preserving fishing opportunities for U.S. fishermen rather than just considering effort limitations.

Mr. David Sones responded to a public comment by stating he did not favor fuel subsidies; instead the Council should encourage programs to help with the adoption of new technologies to increase fuel efficiency. Mr. Hansen cautioned that considerable expense may accompany the adoption of such technologies.

Ms. Fosmark pointed out that there are already many harvesters who participate in a range of fisheries including the albacore fishery, and she does not foresee any additional expansion of effort.

Ms. Vojkovich moved and Mr. Moore seconded a motion (Motion 2) that the Council direct the HMSMT and HMSAS to develop a range of management measures to address the potential recreational thresher shark fishery management issue. In their exploration of management measures the HMSMT's first priority would be to look at the most simple management measure (such as a season closure or an alignment of commercial/sport seasons); the second priority would be to evaluate bag limits as outlined in the HMSMT Report.

Ms. Vojkovich spoke to her motion and recommended that consideration of management measures be expanded to northern California, so not just the recreational fishery in the Southern California Bight would be considered. The HMSMT should also further investigate data uncertainty.

Motion 2 passed unanimously.

Ms. Vojkovich sought clarification from Mr. Helvey on what NMFS plans to do next with respect to the study of albacore management measures, given Council discussion. He said that they would be expanding it to look at the big picture as discussed previously by both Ms. Vojkovich and Ms. Culver. Ms. Vojkovich asked about the timing and nature of the report. Mr. Helvey said the report would likely be available in 2009. He described the potential topics it would cover and said it would be handed off to the Council, with the assumption that the Council would pass it on to the HMSMT and HMSAS for the development of recommendations.

Ms. Culver said the HMSMT should update information on current albacore effort in preparation for receiving the white paper.

Mr. Moore cautioned that the report should not have recommendations framed in such a way that it would put undue pressure on the Council to take action they do not consider necessary at the time. Mr. Helvey concurred.

Ms. Vojkovich said that the HMSMT should coordinate with CDFG on the development of Federal regulations and conforming state regulations in response to the recreational thresher shark fishery issue, including the timeline for these regulatory actions.

D.2 Council Recommendations to Regional Fishery Management Organizations (06/08/08; 1:24 pm)

D.2.a Agenda Item Overview

Dr. Dahl provided the agenda item overview.

D.2.b Reports and Comments of Advisory Bodies

Mr. Heberer provided Agenda Item D.2.b, Supplemental HMSMT Report. In response to questions from Ms. Vojkovich and Ms. Culver, Mr. Heberer said that, based on joint discussion, the HMSMT supports the recommendation in the HMSAS report.

Mr. Heikkila provided Agenda Item D.2.b, Supplemental HMSAS Report.

D.2.c Public Comment

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

D.2.d Council Action: Approve Recommendations on HMS Management to the Northern Committee of the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission

Ms. Vojkovich asked Dr. Dahl whether any of the recommendations in the Supplemental HMSAS Report were not relevant, considering the role of the Northern Committee. He viewed all the recommendations as relevant while emphasizing that the Northern Committee's responsibility is limited to a relatively small number of stocks principally occurring north of 20° N latitude. Ms. Vojkovich then asked Dr. Dahl if he knew at what stage the Northern Committee was at in considering reference points for North Pacific albacore. Dr. Dahl was unsure but thought there was some intercessional work occurring, with the potential for action at their next meeting.

Mr. Helvey said he believed that at their December 2007 plenary meeting the Western and Central Pacific Fisheries Commission (WCPFC) assigned the Northern Committee the task of developing reference points.

Ms. Vojkovich provided guidance on the contents of letters containing Council recommendations. She said it appears that the recommendations in the Supplemental HMSMT Report are supported by the HMSAS recommendations in their report and these recommendations should be included. The letter should reiterate any previous recommendations adopted by the Council at their April meeting, as appropriate. With respect to the Supplemental HMSAS Report, the recommendations are appropriate with the exception of numbers 5 and 6 (encourage and foster greater cooperation between WCPFC and IATTC, facilitate collecting information on other nations' recreational fishing fleets). The letter should also provide recommendations on research priorities for the Commissions, based on what is identified in the Council Research and Data Needs Report (Agenda Item C.3).

E. Salmon Management

E.1 Klamath River Fall Chinook Overfishing Concern (06/08/08; 1:55 pm)

E.1.a Agenda Item Overview

Mr. Chuck Tracy presented the agenda item overview.

Dr. McIsaac asked for clarification in regards to the Council Action of adopting a rebuilding plan for Klamath River fall Chinook (KRFC) in light of the Salmon Fishery Management Plan (FMP) providing an option of adopting a rebuilding plan or assuring the stock conservation objective was met. Mr. Tracy replied that at the March 2008 meeting the Council elected to choose a rebuilding plan for KRFC rather than accept simply achieving the conservation objective as the criteria for ending the Overfishing Concern. The Council proposed a slightly different set of criteria from that recommended in the Salmon Technical Team assessment, which was released for public review, along with the STT proposal. The Council's task was then to take final action on a rebuilding plan for KRFC based on analysis of the two alternative approaches and public comment.

Ms. Cooney noted the proposed KRFC rebuilding plan was in response to FMP requirements to satisfy Magnuson-Stevens Act requirements, not necessarily National Standard 1 Guidelines.

Dr. McIsaac asked if one alternative for criteria to end the Overfishing Concern was achieving the stock conservation objective in 2007.

Ms. Cooney replied that alternative had no STT or SSC review, and was less conservative than the scientific recommendations and analyses to date.

Mr. Anderson asked if the rebuilding plan was more than what was included in Attachment 3. Mr. Tracy replied no, the recommendations in Attachment 3 comprised the strategy to achieve the criteria.

Ms. Fosmark asked if additions to the list of recommendations in Attachment 3 were permissible. Ms. Cooney replied it would depend on the record and whether additional analysis would be necessary. Mr. Tracy added that Attachment 4 included some recommended additions that were on the record.

E.1.b Agency and Tribal Comments

Mr. Tracy noted there were comments in the briefing book (Agenda Item E.1.b, Hoopa Valley Tribal Comments).

Mr. Mike Orcutt presented Agenda Item E.1.b, Hoopa Valley Tribal Comments, after the SSC report. He also stated that the Hoopa and Yurok tribes had not been adequately consulted as co-managers on the issue of KRFC rebuilding; specifically the timing of adopting the criteria and rebuilding strategy impacts tribal fishery planning. Habitat restoration in the Trinity Basin had increased productive capacity and would benefit from the additional natural spawning escapement associated with a 40,700 management objective during the rebuilding process.

Mr. Anderson asked if the tribal fisheries were being sampled at a minimum 20% rate as recommended in the rebuilding strategy. Mr. Orcutt replied the tribal fisheries were sampled at a higher rate than other river fisheries.

E.1.c Reports and Comments of Advisory Bodies

Mr. Allen Grover presented Agenda Item E.1.c, Supplemental STT Report and Agenda Item E.1.c, Supplemental STT Report 2.

Dr. McIsaac asked for clarification on the statement that there was a good chance of meeting the 40,700 natural area adult spawner level in 2008. Mr. Grover replied that that was a qualitative statement referring to the performance of the 2004 brood predictions.

Dr. McIsaac asked if the statement that there was a very good chance of not meeting the 35,000 natural area spawner floor in 2009 required some speculation regarding 2008 jack returns and 2009 ocean fisheries. Mr. Grover replied that was based on the 2005 brood age-3 forecast being the lowest on record, and likely producing few age-4 adults for the 2009 return. The full context of the statement addressed that point with the qualification that absent a very strong jack return in 2008 the floor would likely not be met.

Dr. McIsaac asked if the STT examined the likelihood of an average jack return in 2008 achieving the 35,000 spawner floor in 2009. Mr. Grover replied no, that the statements were strictly qualitative.

Mr. Wolford asked if the assumptions used in the model scenarios resulted in greater or lesser differences between the alternatives under consideration. Mr. Grover replied that the intent was to illustrate greater differences, although the STT was unsure if the model results were informative.

Mr. Steve Williams noted the Council proposed criteria was intended to end the overfishing concern, not necessarily to ensure adequate recruitment of future generations as was stated in Supplemental STT

Report 2. Mr. Grover replied the statement was intended to distinguish between the two alternatives for determining stock rebuilding: 1) the Council proposed criteria, which relied on two escapement events, and 2) the STT recommended criteria, which relied on two recruitment events. The SSRM analysis was not particularly helpful in assessing the relative risks of those two alternatives.

Mr. Wolford asked if the STT was not confident in the results of the SSRM analysis, what guidance did the STT have for the Council. Mr. Grover replied the STT stood behind their initial recommendation for criteria to end the Overfishing Concern.

Dr. McIsaac asked what the cost in ocean catch was between the two alternatives. Mr. Grover replied the SSRM analysis was not sensitive to that factor, but indicated very little difference, which was one reason the STT was not confident in the SSRM results.

Mr. Anderson asked if the STT were confident that the other recommendations in Attachment 3 would be achieved if the Council made the requests to the agencies with authority. Mr. Grover replied some would, others reflected frustration with data quality and quantity that went into the assessment. For example the 20 percent sampling rate, the 25 percent constant fractional marking, the recreational river fishery management, and the disease research were either moving forward or likely to occur.

Mr. Anderson asked if the Council would take an active role in requesting some of the other actions. Dr. McIsaac replied yes.

Ms. Vojkovich noted some of the issues were already being pursued with the State of California as a result of earlier action by the Council.

Mr. Anderson noted that without the other recommendations, determining the criteria to end the Overfishing Concern was meaningless.

Mr. Duncan MacLean presented Agenda Item E.1.c, Supplemental SAS Report.

Dr. Lawson presented Agenda Item E.1.c, Supplemental SSC Report.

Mr. Anderson asked if there were additional analyses that could be conducted to evaluate the underlying biological principles of the alternative criteria. Dr. Lawson replied the SSC did not have any specific recommendations.

Mr. Lockhart asked if the SSC was endorsing the STT view that multiple recruitment events were a more appropriate measure than multiple spawning events. Dr. Lawson replied yes.

Dr. McIsaac asked if the SSC reviewed the relative effects of jack returns greater or less than average on future returns. Dr. Lawson replied no, but noted that neither 35,000 nor 40,700 spawner escapements should be viewed as strong.

Mr. Wolford asked if the stochastic nature of the SSRM would be expected to capture annual variability in marine survival. Dr. Lawson replied the results as reported would show only long-term tendencies, but the way the model applies annual variation was the concern, particularly since marine survival has a very strong effect on brood strength.

E.1.d Public Comment

Mr. Duncan MacLean, F/V Barbara Faye, El Granada, CA, recommended the Council initiate a review of mitigation issues and compliance, and hatchery reform.

E.1.e Council Action: Confirm or Establish Criteria for Determining the End of the Overfishing Concern

Mr. Lockhart observed that the scientific analysis was not particularly informative as the SSRM showed little difference in the alternative criteria, and may not have been the appropriate model for the analysis. However, both the STT and SAS recommended having two successful recruitment events contribute to the recovery of KRFC and the end of the Overfishing Concern. At least two poor recruitment events contributed to the Overfishing Concern, and logically two successful events should contribute to ending it. While the analysis lacked resolution and the decision was a policy call, because both scientific bodies endorsed the same criteria, which was more biologically conservative, NMFS preferred the STT recommended criteria.

Mr. Steve Williams moved (Motion 3) to adopt for a final rebuilding plan for Klamath River fall Chinook, including criteria for ending the Overfishing Concern, the 12 items as shown in Agenda Item E.1.a, Attachment 3, including the strikeout and underline (the Councils adopted criteria for public review).

Mr. Warrens seconded the motion.

Mr. Steve Williams noted the issues associated with the current Overfishing Concern went beyond fishing; the primary cause was model bias, which was corrected. The differences between the biological risks of the two alternative criteria were slight while the difference in catch was potentially significant. Achieving stock size maximum sustainable yield (SMSY) in 2007 and likely in 2008 was sufficient to end the Overfishing Concern.

Mr. Lockhart asked if there were concerns for relying on one successful brood to supply both the 2007 and 2008 spawning escapement. Mr. Williams replied he understood that concern, but that larger issues such as river conditions and productivity were more important.

Mr. Lockhart moved to amend Motion 3 to use the criteria recommended by the STT for ending the Overfishing Concern to attain a minimum of 35,000 adult natural area spawners in three out of four consecutive years, with at least 40,700 spawners in at least one of those years. Mr. Sones seconded the amendment to Motion 3.

Mr. Lockhart stated the two Klamath tribes favored the STT recommended criteria and felt it affected their fishing rights, and there were other conservation reasons to adopt the STT recommended criteria.

Mr. Anderson asked what the rationale was for having one year with a spawning escapement of at least 40,700. Mr. Lockhart replied that 40,700 is the best scientific estimate of SMSY. Mr. Tracy added that the STT recommended rebuilding to SMSY to be consistent with the National Standard 1 Guidelines.

Mr. Wolford stated that the lack of clear differences between the alternative criteria in the STT analysis made deciding between them difficult. The Council's authority to manage fisheries does not affect the success of recruitment events, but can affect spawning escapement, therefore it was more appropriate to base the criteria on factors within Council influence. The risks were not significantly different, but the natural variation in escapement makes attaining 35,000 in three of four years difficult, and could separate the solution from the cause of the Overfishing Concern.

Mr. Sones noted that the SSRM did not predict much difference in risks between the alternative criteria, but the model was not very informative and should not be relied on for that purpose. When information is lacking, decisions should err on the side of conservation, which was consistent with the tribes' position.

Amendment to Motion 3 failed (7 no, 6 yes; Messrs. Wolford, Moore, Mallet, Hansen, Williams, Warrens, and Fosmark voted no).

Chairman Hansen supported the original Motion 3 based on the rationale presented by Mr. Melcher in March 2008.

Mr. Wolford asked if the language recommended by the SAS for recommendation 4 in Attachment 3 was intended to be included in the original Motion 3. Mr. Steve Williams replied no.

Motion 3 passed as amended (7 yes, 5 no, 1 abstention; Messrs. Sones, Anderson, Myer, Cedargreen, and Vojkovich voted no; Mr. Lockhart abstained).

F. Groundfish Management

F.1 National Marine Fisheries Service (NMFS) Report (06/08/08; 3:58 pm)

F.1.a Regulatory Activities

Mr. Frank Lockhart noted that Ms. Goen was replaced by Ms. Sarah McAvinchey.

Mr. Lockhart gave a whiting treaty update, particularly regarding language that was added to the whiting treaty at the last second which refers to the participation of those advisors who might have a conflict of interest. One interpretation of the language appears to severely limit the ability of anyone with any interest in the fishery to participate as an advisor. A legislative fix may be required, and an initial communication from NMFS to Congress has occurred.

The California trawl fishery opened May 5 (very late) and closed May 29. The widow rockfish bycatch rate was higher than expected. Amendment 15 should be out next week. The Exempted Fishing Permits (EFPs) will be out soon.

F.1.b Science Center Activities

Dr. Elizabeth Clarke provided a brief report on science center activities. Bottom trawl survey is out and working; however, fuel costs are high which might damper getting entire survey done. The NWFSC fulfilled several requests for the GMT, including a request to track yelloweye rockfish bycatch in the nearshore and depth related discard rates. Both centers are out doing the pre-recruit survey. The catchability or "Q" workshop is scheduled for September 23-25, 2008 in Seattle, WA at Hotel Deca. There is a meeting on the historical catch reconstruction with Washington, Oregon, California, and NMFS staff just after the November Council meeting.

The GMT also requested information in March for a spatial analysis of the survey and bycatch information for overfished species. Dr. Hastie, and Ms. Marlene Bellman have been working on a website that provides fisheries data, habitat maps, and survey data. Dr. Clarke gave a PowerPoint presentation available on the Council's website:

http://www.pcouncil.org/bb/2008/0608/F1b_SUP_NMFSSC_PPT_0608.pdf

Mr. Lockhart indicated the presence of Mr. Sam Rauch, the deputy to the Acting Assistant Administrator of NMFS.

F.1.c Reports and Comments of Advisory Bodies

None.

F.1.d Public Comment

None.

F.1.e Council Discussion

None.

F.2 Stock Assessment Planning for 2011-2012 Groundfish Fishery Decision Making

F.2.a Agenda Item Overview

Mr. John DeVore provided the agenda item overview.

F.2.b Stock Assessment Options

Dr. Elizabeth Clarke and Dr. Jim Hastie provided a PowerPoint presentation, available on the Council's website at: http://www.pcouncil.org/bb/2008/0608/F2b_SUP_PPT_0608.pdf. Pacific hake may go through an international review process rather than our Stock Assessment Review (STAR) process. Full assessments for bocaccio, widow, yelloweye, lingcod, petrale sole, and cabezon are proposed for next year. Lingcod was originally proposed for an update assessment, but is now recommended for a full assessment. Canary, cowcod, POP, and darkblotched are proposed for updates. POP will need to be a full assessment in 2011. Currently unassessed species that are proposed for full assessment are spiny dogfish, bronzespotted rockfish, greenspotted rockfish, splitnose rockfish, and greenspotted rockfish. The bronzespotted and greenspotted assessments may evolve into data reports. Dr. Clarke said she could discuss data reports later.

Dr. Clarke said the NWFSC provided comments to the SSC regarding the stock assessment terms of reference. One issue that is still in dispute is the number of reviewers in a STAR panel. The NWFSC guidance is a limit of three reviewers per STAR panel. The SSC wants N+2 reviewers for STAR panels, where N = number of assessments reviewed in a STAR panel. However, higher quality reviewers are needed, not more reviewers. Additional reviewers drive up costs.

Mr. Anderson asked about the schedule for assessments. He wanted to know if the NWFSC needed anything from WDFW on the proposed lingcod assessment and Dr. Clarke said they needed the original data files. They would also like to chat with the WDFW assessment scientists who worked on the last lingcod assessment. Mr. Anderson asked if there was a new assessment model and Dr. Clarke said there is the SS3 model, which updates SS2 with more features. These features, such as the ability to model tagging data, are not typically used. Mr. Anderson said there has been a lot of tagging work done with lingcod.

Mr. Anderson asked about the number of reviewers at STAR panels. Dr. Clarke said that issue is discussed on page 6 of the draft stock assessment terms of reference.

Mr. Moore asked about the tradeoff of POP and petrale sole for full assessment. POP was done five years ago and petrale was done three years ago. Dr. Clarke said there are many un-aged POP otoliths that cannot be aged in time for a 2009 assessment.

Mr. Moore asked about the bronzespotted and greenspotted assessments. Is the recommended process to advance both and select one for a full assessment? Dr. Clarke said data reports explain the availability of data and provide a less rigorous status update. Data reports also explain the data gaps. The SSC recommendation is to do two data reports and have the SSC decide whether one of these species' data reports advances to a full assessment.

Mr. Williams asked about the number of reviewers at STAR panels and the additional costs associated with having more than three reviewers at a STAR panel. Dr. Clarke said the additional independent reviewer costs about \$25,000 per review. Other sources of outside reviewers are other science center scientists.

Ms. Vojkovich asked if there was any room in the process to add additional assessments. Dr. Clarke said the maximum number of STAR panels is five, not including the review panel for hake, which is the maximum number of panels that can be done. Dr. Hastie added that with five STAR panels and the convention to limit each STAR Panel to review two full assessments, the limit of full assessments is ten.

Dr. McIsaac asked about data reports and noted the terms of reference does not address data reports. It is hard to understand how that can inform management decisions. He asked how Dr. Clarke would define a data report. Dr. Clarke said the cowcod data report in 2003 provides an example. Data reports provide some advice. They analyze catch historically and in recent times. They highlight management concerns. They also provide information to decide whether a more quantitative assessment can be done. She believes data reports and the review process for these reports should be explicit in the terms of reference.

Dr. McIsaac said there is only one Center of Independent Experts (CIE) reviewer listed per STAR panel. The review workshop participants said the chair is distracted from participating in the full review. An added reviewer may help that. Dr. Clarke said there are two CIE reviewers, one goes to all the STAR panels and another rotates in. The SSC chair has to decide whether they are a reviewer and a chair or just the chair. With five STAR panels, we need ten CIE reviewers, which is more than any other region in the country. It is challenging for the chair to also serve as a reviewer. If the chair is dedicated to chairing the meeting, then a STAR panel would need two CIE reviewers and two SSC members, since one is needed to review. The CIE will not let their reviewers be rapporteurs.

Dr. Hastie remarked that bronzespotted and greenspotted may be data reports, but there is intent to develop full assessments for these species. One assessment last year probably should have been a data report. He recommended having an option at a STAR panel to downgrade an assessment to a data report. Mr. Moore asked if the terms of reference needs to be revised to include the option of data reports and Dr. Clarke said yes.

Mr. Sones asked about an assessment of Pacific cod and whether that species is ripe for an assessment. Dr. Clarke said the NWFSC may recommend this stock for an assessment in 2011.

F.2.c Scientific and Statistical Committee Report

Dr. Steve Ralston provided Agenda Item F.2.c, Supplemental SSC Report.

Mr. Moore said, since the B40% biomass level is our FMP target, why should it be considered a general guideline. Dr. Ralston said some species, such as whiting, may have a better estimate of MSY than the B40% proxy. The SSC wants the flexibility for analysts to estimate MSY using other thresholds.

Mr. Moore said the terms of reference will need to be revised with new National Standard 1 guidelines. Will the SSC be able to develop a terms of reference for data reports and Dr. Ralston said yes. When annual catch limits (ACLs) are implemented, data reports may be helpful. There will be many cases where available data will be helpful for management decisions, but not enough for formal assessment. Some less rigorous analyses may still be helpful in informing stock status or management device. Data reports could help decide control rules for data-poor species.

Mr. Moore asked about some of the substitute language that was stricken in March. Dr. Ralston said reviewers who are supervising Stock Assessment Team (STAT) members need to recuse themselves from the review.

Mr. Moore asked about the POP assessment. Dr. Ralston said a full assessment is advised for deciding if a stock is rebuilt.

Mr. Wolford asked if the POP issue is the outdated nature of the full assessment or that an update should not be used to declare a stock rebuilt. Dr. Ralston said it depends on the quality of the data in the assessment. He was not personally averse to using an update to declare a stock rebuilt.

Mr. Anderson asked if the default control rules for data-poor assessments in the FMP are being questioned by the SSC and Dr. Ralston said yes. Most default control rules are based on historic catch. There are analyses such as yield per recruit analyses or catch curve analyses that may be helpful. New control rules such as these could be intermediate to default catch-based control rules and the 40-10 policy.

Mr. Anderson said the spiny dogfish data may be a challenge to use in a full assessment. This could be a data report as well. He wanted to know the SSC thoughts on the data reports. The list of stocks language in the candidate list regarding data report (attachment 1) was provided by the SWFSC. The vermilion assessment was also not deemed complete enough for a full assessment, but was helpful in providing advice as a data report. STAR panels need the "out" to downgrade an assessment to a data report.

Ms. Vojkovich asked about the bronzespotted and greenspotted assessments. They will both be developed as data reports and one may be advanced as a full assessment. Dr. Ralston said the SSC-proposed process is to attempt to develop both as full assessments and have the SSC Groundfish Subcommittee decide this fall which one may be a full assessment. Ms. Vojkovich asked if both could end up being data reports and Dr. Ralston said yes.

Dr. McIsaac asked about refining the Stock Assessment terms of reference on this process or what happens with a data report. Is the SSC willing to develop a data report definition over the summer and Dr. Ralston said that is doable. Also ACLs and new National Standard 1 guidelines need to be considered as well.

Mr. Anderson asked Dr. Ralston if he had other advice. Dr. Ralston said the SSC believes four reviewers are needed for a STAR panel. The SSC also agrees with using a CIE reviewer. The SSC believes STAR

panels also need reviewers with West Coast expertise. Therefore, they strongly recommend four reviewers per panel.

Dr. Clarke said the data reports issue is to have the ability to consider information that is not adequate for a full assessment in management decision-making. The terms of reference needs more clarity on the use of data reports.

Dr. Clarke said the number-of-reviewers issue is predicated on the need for some outside review. CIE reviewers are needed but budgets dictate their availability. The NWFSC is not recommending against using only reviewers with West Coast experience, but there is a strong need for CIE review. A constant CIE reviewer is very helpful. Adding extra West Coast reviewers is fine, but there are costs. Mr. Moore asked what is her recommendation for the number of reviewers for a STAR panel and Dr. Clarke said the minimum number of reviewers should be three. Mr. Moore said the STAR panel reviewers can be decided on a case by case basis. Dr. Ralston said the STAR chair is a quasi-reviewer and another non-CIE reviewer is needed to be a rapporteur. Dr. Clarke said she understands this concern.

F.2.d Reports and Comments of Advisory Bodies

Ms. Heather Mann provided Agenda Item F.2.d, Supplemental GAP Report.

F.2.e Public Comment

Dr. Steve Barrager, Stanford Law School, San Francisco, CA: provided written and oral comments.

F.2.f Council Action: Adopt Final Terms of Reference, Stock Assessments, and Assessment Schedule for 2009

Mr. Moore moved and Ms. Fosmark seconded a motion (Motion 4) to adopt the list of full assessments and update assessments in Agenda Item F.2.c, Supplemental SSC Report, including the suggested process for deciding between bronzespotted and greenspotted rockfish.

Ms. Vojkovich asked if the list of recommended assessments was the same as those recommended by the NWFSC in Agenda Item F.2.a, Attachment 1 and Mr. Moore said it looks like the SSC recommendations matches the final recommendation by the NWFSC.

Mr. Anderson said he was concerned whether there would be enough data for a full spiny dogfish assessment. He wanted flexibility to convert the spiny dogfish assessment to a data report and Mr. Moore said that is the intent of his motion. Mr. Anderson said he also wanted to see something regarding the utilization of data reports be developed by the SSC and brought back to the Council in September.

Mr. Anderson said there are many lingcod rays prepared for ageing. Since the anticipation was that lingcod would be an update, those samples have not yet been aged. He wants to talk with the NWFSC to figure out how to do this. Dr. Clarke said they would talk.

Motion 4 carried unanimously.

Mr. Moore moved and Ms. Fosmark seconded a motion (Motion 5) to adopt the draft groundfish rebuilding analysis terms of reference (as shown in Agenda Item F.2.a, Attachment 3), with the following change on page 5 that "... rather the rebuilding target generally should be taken to be .4B0."

Mr. Moore said that as part of this motion, Council staff has the authority to make editorial changes to the terms of reference. His motion was based on the SSC statement to provide them with the ability to bring forth additional science that might be useful. He tends to think more science is better than less science.

Motion 5 carried unanimously.

Mr. Moore moved and Ms. Fosmark seconded a motion (Motion 6) to delay adoption of the stock assessment terms of reference. The SSC should come back to the Council in September with a re-written section that includes an effort to define data reports. The number of reviewers on a STAR panel should be a minimum number of three reviewers including some with West Coast experience, if possible.

Mr. Anderson said he would rather give the science centers and the SSC time to talk this out and come back with a consensus recommendation on the number of reviewers. He does not want to be prescriptive at this point on West Coast expertise if possible.

Mr. Anderson moved and Mr. Myer seconded a motion to amend Motion 6 to have the science centers and the SSC discuss these issues and bring us back a proposal in September on the number of reviewers and West Coast representation on STAR panels. Mr. Moore and Ms. Fosmark accepted the amendment as friendly.

Mr. Wolford asked if the data report piece would explain how data reports might be used. Mr. Moore said he would defer to the SSC on providing a definition of and use of a data report.

Motion 6 carried unanimously with the friendly amendment.

F.3 Preliminary Review of Exempted Fishing Permits (EFP) for 2009

F.3.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

F.3.b Agency and Tribal Comments

Mr. Lockhart recommended that there should be a high bar for final decisions on EFPs in November.

F.3.c Reports and Comments of Advisory Bodies

GMT Report

Mr. DeVore read Agenda Item F.3.c, Supplemental GMT Report. Questions were then directed to GMT Vice-Chairman Rob Jones.

Mr. Moore asked about The Nature Conservancy (TNC) EFP bycatch limits. The EFP application stated the GMT would suggest appropriate limits. Mr. Jones said the GMT did not have time to discuss that detail yet.

Mr. Lockhart asked if the GMT ranked the utility of the new EFP applications and Mr. Jones said the GMT decision was to decide up or down whether to recommend advancing these EFPs. Such details of those EFPs recommended by the Council will be reviewed and ranked later in the year.

GAP Report

Ms. Mann provided Agenda Item F.3.c, Supplemental GAP Report.

Mr. Moore asked about the GAP request for 2008 EFP reports before a final decision is rendered in November and Ms. Mann said this was requested for all EFPs that are repeated from this year.

Ms. Vojkovich asked about the derby fishery mentality for Conception area sablefish and the effect of the TNC EFP. Ms. Mann said the GAP is concerned that there is less sablefish available with the expectation of the TNC EFP. Now there is a derby fishery for sablefish to get sablefish before the EFP is implemented. Ms. Vojkovich asked how that affects next year and Ms. Mann said the GAP expects an effort shift if next year's sablefish OY increases dramatically.

Mr. Williams asked about the GAP recommendation to refine a depth restriction for the Oregon RFA yellowtail EFP and Ms. Mann deferred to Mr. John Holloway under public comment.

EC Report

Deputy Chief Mike Cenci provided Agenda Item F.3.c, Supplemental EC Report. Lt. Jeff Samuels and Lt. Specialist Bob Farrell were also available to answer questions.

Mr. Moore asked about the EC concerns regarding the minimum distance between the hook and weight in the Oregon recreational yellowtail EFP. Deputy Chief Cenci said the application was not clear on a minimum distance. Lt. Jeff Samuels added that the minimum distance needs to be set. There is a concern that the leader could be coiled up; therefore, the language needs to be tighter.

Mr. Anderson said he would like the EC to consider regulations that might be used fleetwide if the recreational yellowtail EFP is successful. Mr. Anderson said EFP COP 19 requires EFP participants be identified. This needs to be included in any EFP applications that are forwarded in this process.

Mr. Hansen asked if the Council would need a closed session to review EFP participants to make sure no bad actors are included. Deputy Chief Cenci said the EC would review the list of EFP participants and could advise the Council in closed session.

Ms. Vojkovich noted the EC concerns about the California recreational flatfish EFP operating in closed waters and the question raised about how to verify vessel position. She asked if the EC had the same concerns for the Oregon recreational yellowtail EFP and Deputy Chief Cenci said we need some assurances that they are fishing where they are supposed to fish. Ms. Vojkovich said that description would be needed for any EFP that has a closed area component and Deputy Chief Cenci agreed. The Council needs to consider an EFP compliance rate.

Mr. Moore said several EFP applications list charterboats as participants. He asked if we need to only review the records of vessel operators and Deputy Chief Cenci said yes. Mr. Lockhart said the EC should talk with staff from the NMFS Northwest Region and NOAA General Counsel before EFPs are ultimately decided by the Council.

F.3.d Public Comment

Mr. Michael Bell, Nature Conservancy, San Luis Obispo, CA
Mr. Rick Algert, Harbor Director, Morro Bay, CA
Mr. Bill Blue, commercial fisherman, Morro Bay, CA

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Wayne Butler, Prowler Charters, Bandon, OR
Mr. John Holloway, Recreational Fishing Alliance, Portland, OR
Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA

F.3.e Council Action: Adopt Preliminary Recommendations for EFP

Mr. Moore asked about the TNC permits and whether those permits need to be transferred to vessels and Mr. Lockhart said that was the plan.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 7) to adopt for public review the following EFPs:

- Agenda Item F.3.a, Attachment 1: Application for an EFP sponsored by Steve Fosmark entitled, "Evaluation of an epibenthic trolled longline to selectively catch chilipepper rockfish (*Sebastes goodei*)";
- Agenda Item F.3.a, Attachment 2: Application for Issuance of an EFP to Fish Trawl Permits with Longline, Trap, Pot, and Hook-and-line Gear in a Community Based Fishing Association off the Central California Coast;
- Agenda Item F.3.a, Attachment 3: Application for an EFP sponsored by the Recreational Fishing Alliance and the Golden Gate Fishermen's Association Entitled, "Recreational Rockfish Catch Composition in the Rockfish Conservation Area Using Gear-Based Harvest Controls" **with the stipulation that the targeting of yellowtail be removed;**
- Agenda Item F.3.a, Attachment 4: Application for an EFP sponsored by the Recreational Fishing Alliance Entitled, "Oregon Recreational Yellowtail Rockfish EFP";
- Agenda Item F.3.a, Attachment 6: Application for an EFP sponsored by the Recreational Fishing Alliance and the Golden Gate Fishermen's Association Entitled, "Recreational Flatfish Catch Composition in the Area Around and Seaward of the Rockfish Conservation Area" **with the stipulation that the applicant continue to work with CDFG to tighten it up.**

Mr. Moore said the EFP bycatch caps should be decided later, but these EFPs are recommended by the GMT.

Motion 7 carried (Ms. Fosmark recused herself from the vote).

F.4 Tentative Adoption of 2009-2010 Groundfish Harvest Specifications, Management Measures, and Rebuilding Plan Revisions (06/10/08; 8:02 am)

F.4.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

F.4.b Agency and Tribal Comments

Tribal Comments

Mr. Sones explained that the tribes are preparing analyses and comments for the EIS. He explained the Makah Tribe had comments to offer.

Mr. Russell Svec, Mr. Steve Joner, and Mr. Marc Slonim (Makah tribal attorney) provided comments on the 2009-2010 tribal whiting fishery proposals. The Makah Tribe is proposing a 17.5% Makah allocation of whiting and 3% allocation for the Quileute Tribe, for a 20.5% combined tribal allocation of whiting. The tribes are also proposing a roll-over of unused whiting yields to the next year. The Quinalts do not intend to participate in the 2009 whiting fishery, although the Quileutes do intend to fish. They are hopeful that there will not be a need for formal allocation of bycatch species. Each tribe should be responsible for their allocation and bycatch.

The Makah proposal for 2010 is a 17.5% whiting allocation for the Makah Tribe. However, an allocation for the other tribes should be deferred until the observed performance of the 2009 fishery is evaluated. The other tribes have not determined the potential capacity of their tribal fleets. The other tribes have not offered a bycatch reduction plan or projected their potential bycatch in 2009 or 2010 whiting fisheries.

Mr. Anderson said there has been a quantification of past Makah Tribe whiting harvests. The proposal is to do away with the sliding scale and determine a Makah allocation of 17.5%, which is the upper end of the sliding scale allocation. He summarized the rest of the tribal proposal accurately according to Mr. Svec.

Mr. Moore asked if there was any indication of need for additional Makah tribal set-asides for bycatch species and Mr. Svec said the current scorecard values are adequate. Mr. Joner said canary encounters are increasing and more canary will be needed in future tribal fisheries depending on the whiting OY.

Mr. Anderson asked, if the 2009 whiting OY was the same as 2008, the 35,000 mt whiting allocation this year would be 47,000 mt. An additional 3% for the other tribes would provide a tribal allocation of over 55,000 mt with additional bycatch.

Mr. Lockhart asked if the Secretary is supposed to settle intertribal allocation disputes without a formal treaty entitlement decision. Mr. Slonim said the sliding scale allocation was put into place in 1999 as an interim allocation. Now the Makah tribe has demonstrated the need for more whiting. The 20.5% proposal represents the individual tribal proposals without a formal analysis of entitlement. It is not an intertribal allocation decision.

Mr. Sones said he will recuse himself from the discussions and voting since he has a fishing interest in the Makah tribal whiting fishery.

Mr. Mel Moon and Mr. Kris Northcut of the Quileute Tribe testified that the Quileutes have had a series of meetings on this issue. The Quileutes intend to fish whiting in 2009 and agree with the 20.5% allocation Makah proposal. One or more Quileute members will fish next year. A letter of intent in January was sent to NMFS. NMFS advised that intertribal allocations are an issue for the tribes. The Quileute, Makah, and Quinalt tribes met with NMFS on May 2. The Quileutes estimate a harvest by one vessel of 4,000-8,000 mt between May 15 and December 15 in 2009. They will minimize bycatch in the 2009 fishery. Since then, the Quinalts said the earliest they would fish whiting would be 2010. The 20.5% allocation is within the tribal rights since the stock passes through their usual and accustomed fishing areas (U&As). Any tribal allocation should be for all the tribes combined and should not allocate on a tribe by tribe basis. The tribes should decide the intertribal allocation. The Quileutes object to an allocation decided by NMFS to any one tribe. Bycatch rates in the Quileute are not significantly different between the different tribal U&As.

Mr. Anderson said the Quileute testimony deviates from the Makah proposal to a straight 20.5% allocation for all the tribes and Mr. Moon said that the Quileutes agree with a combined 20.5% allocation and are still in discussion on an intertribal allocation.

CDFG Comments

Ms. Vojkovich said there are new supplemental CDFG reports that were just handed out. Supplemental CDFG Report 3 replaces information in the draft chapters 2 and 3 of the EIS. Season structures and analyses were revised according to new discard mortality by depth methodologies. There is an analysis for eliminating a gear restriction for sanddabs, a new bag limit analysis, and an analysis of potential impact savings by specifying new Yelloweye Rockfish Conservation Areas (YRCAs). Supplemental CDFG Report 4 recommends revising RCA line coordinates in waters off California. The CDFG Report in the briefing book provides the CDFG perspective on historical yelloweye catch sharing. The most important issues for California will be blue rockfish specifications, cowcod specifications, and yelloweye specifications and catch sharing.

ODFW Comments

Mr. Williams spoke to the documents provided by ODFW. Supplemental ODFW Report (F.4.b) summarizes their stakeholders' comments at public meetings. Supplemental ODFW Report 2 provides a proposal to target sanddabs inside 40 fm. Supplemental ODFW Report 3 provides a preliminary preferred proposal from ODFW.

WDFW Comments

Mr. Anderson spoke to supplemental WDFW reports. Supplemental WDFW Report 1 identifies concerns with the CDFG perspective on yelloweye catch sharing and shares the WDFW perspective on this issue. Supplemental WDFW Report 2 provides the WDFW preliminary preferred recreational management measures for 2009-10. Constituent meetings have led to this proposal, which is consistent with alternatives provided in April. There has been angst in Washington on yelloweye catch sharing and they are preparing to work hard this week to meet conservation objectives and community concerns. They will be requesting analysis of the fixed gear RCA later today.

F.4.c Reports and Comments of Advisory Bodies

GMT Report

Mr. Rob Jones provided Agenda Item F.4.c, Supplemental GMT Report.

Mr. Myer asked about the widow-darkblotched tradeoff in the whiting fishery. What amount of whiting opportunity would be reduced with a darkblotched OY decrease? Mr. Jones said that he was not sure. However, this could be compensated with a higher widow OY. Mr. Merrick Burden added that the best projection of a widow OY was 515 to 540 mt with a decrease of 15 mt in the darkblotched OY.

Mr. Lockhart asked if there was an offset for a reduced cowcod OY. Mr. Jones said he was not sure.

Ms. Vojkovich asked about the more abrupt adjustment to management using the alternative yelloweye ramp-down strategy and Mr. Jones said that the ramp-down from 2010 to 2011 would be greater.

Ms. Vojkovich asked if the GMT looked at the limited-entry fixed gear (LEFG) and open access (OA) impacts associated with the cowcod OY. Mr. Burden said the GMT looked at it, but the trawl and recreational sectors were affected to a greater degree. Ms. Vojkovich asked about the affect of a greater Conception area sablefish OY and cowcod impacts in fixed gear fisheries. Mr. Burden said the information on fixed gear suggests impacts in those sectors are not as great.

Ms. Vojkovich thought the yelloweye statement in the GMT report referred to the 2006 recreational harvest guidelines for yelloweye and Mr. Jones said yes.

Mr. Anderson asked about the widow-darkblotched OY tradeoffs. The preliminary preferred widow OY was 475 mt and the darkblotched OY was 300 mt. In 2010, the darkblotched OY under the preferred alternative is 306 mt and the widow OY is 475 mt. Not sure how the widow-darkblotched tradeoff affects the 2010 OY. Mr. Anderson requested a run of the darkblotched OY of 15 mt less than the 2010 value and the effect on darkblotched rebuilding.

Mr. Williams asked if the point of providing the abrupt transition from 2010 to 2011 is a warning and Mr. Jones said that was correct. Mr. Anderson thought the abrupt change and difference between the two alternatives is 0.5 mt, which may not be abrupt.

GAP Report

Ms. Heather Mann provided Agenda Item F.4.c, Supplemental GAP Report.

Mr. Moore asked for clarification regarding yelloweye catch sharing between the states and asked if that statement represented the positions of the state recreational members of the GAP and Ms. Mann said that was correct.

Mr. Anderson asked about the GAP recommendation for the sablefish OY of 8,423 mt. Since this OY is the same as the preliminary preferred OY, is the issue then how the OY is apportioned and Ms. Mann said yes.

F.4.d Public Comment

Mr. Rhett Weber, Westport Charterboat Association, Westport, WA
Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA
Mr. Robert Alverson, Fishing Vessel Owners Association, Seattle, WA
Mr. Bill James, fisherman, Salem, OR
Mr. Chris Arcalejo, Monterey, CA
Mr. Robert Ingles, Golden Gate Fishermen's Association, Hayward, CA
Mr. Kenyon Hensel, Hensel's, Crescent City, CA
Ms. Julie Sherman, The Marine Fish Conservation Network, Portland, OR
Ms. Laura Pagano, NRDC, San Francisco, CA
Ms. Meghan Jeans, The Nature Conservancy, San Francisco, CA
Mr. William Smith, F/V Riptide, San Francisco, CA
Mr. Michael Deach, Longliner, Bellingham, WA
Mr. Tom Capan, fisherman, Port San Luis, CA

F.4.e Council Action: Tentative Adoption of 2009-2010 Final Acceptable Biological Catches (ABC), Optimum Yields (OY), Management Measures, and Revised Rebuilding Plans for Overfished Species

Mr. Anderson asked Ms. Cooney about the darkblotched rebuilding plan and whether the new assessment result means we now have to rebuild the stock in 10 years since $T_{F=0}$ is 2018. Ms. Cooney said the MSA ten-year provision does not apply to new assessments since any rebuilding plan within ten years of the target could result in no fishing. However, any harvest of a rebuilding species needs to be justified.

Mr. Anderson asked Ms. Cooney if alternatives to the status quo yelloweye ramp down strategy can be considered if the intent to go to the constant harvest rate strategy in 2011 is preserved. Ms. Cooney said the justification still needs to be made to alter the rebuilding plan and how the new strategy rebuilds the stock in the shortest possible time.

Mr. Anderson referred to Agenda Item F.4.a, Attachment 1, Tables 2-1a and 2-1b, and moved (Motion 9) to adopt the preliminary preferred OY alternatives identified with the following exceptions:

- widow 2009 OY = 522 mt
- darkblotched 2009 OY = 285 mt

Mr. Anderson requested the GMT make corresponding changes to the widow and darkblotched OYs for 2010 under a constant harvest rate strategy. For yelloweye, specify a 2010 OY with a 15.5 mt OY (i.e., 2009 OY = 17 mt, 2010 OY = 15.5 mt). Manage longnose skate with its own OY of 1,349 mt in 2009 and 2010. Specify an ABC of 11,200 mt for the Other Fish complex and an OY of 5,600 mt. Mr. Myer seconded the motion.

Mr. Anderson said the yelloweye alternatives considered were all going to cause severe impacts to fisheries and communities. Not everyone may have had a sense of how severe the ramp down strategy would be. Everyone is hopeful that a new assessment will be more optimistic. The current assessment was very data-poor. The term “abrupt” suggests that management measures going from 17 mt to 14 mt is indeed abrupt. We are going to stay true to our rebuilding plan and a step down from 15.5 mt to 14 mt in 2011 will not be as severe and hopefully that helps.

Mr. Williams moved and Mr. Moore seconded a motion to amend the motion (Amendment 1) to set the yelloweye OY at 17 mt for 2010. Mr. Williams said the impacts to fisheries dropping down from 17 mt will be severe and the rebuilding analysis of the alternative ramp down strategy shows no delay in rebuilding the stock. This may be delaying the inevitable but the impacts are more clearly shown with the analysis in front of us, which justifies this approach.

Roll call vote for Amendment 1 to Motion 9:

Yes- Ortmann, Moore, Warrens, Fosmark, Wolford, Williams, Mallet, Vojkovich

No- Myer, Lockhart, Sones, Cedergreen, Anderson

Amendment 1 to Motion 9 carried.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion to amend the main motion (Amendment 2) to establish a 220 mt harvest guideline (HG) for blue rockfish in 2009 and 2010 while managing the stock within the minor nearshore rockfish complexes. The 220 mt HG is a reduction from the ABC that follows the 40-10 rule for a precautionary zone stock.

Mr. Moore asked for the derivation of the blue rockfish HG. Ms. Vojkovich explained this is just a HG and is set below the estimated ABC from the assessment for precautionary reasons.

Amendment 2 to Motion 9 carried unanimously.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion to amend the main motion (Amendment 3) to establish a 4 mt cowcod OY in 2009 and 2010. Ms. Vojkovich said there are increased area closures in California waters and a very good record of minimizing cowcod impacts. However, there have been instances when 3 mt have been attained and any further closures of fisheries for cowcod would be devastating to California fishing communities.

Mr. Lockhart asked for more explanation of the impacts associated with a 3 mt cowcod OY. Are there any other offsets to provide fishing opportunity? Ms. Vojkovich said the majority of the cowcod take is in the recreational and trawl fishery. Any increase in the sablefish OY could cause curtailment of the trawl fishery if the 3 mt cowcod OY is specified. The variability of fishery interactions is a concern, which is why a 4 mt OY is justified. Mr. Lockhart asked if the new area closures have cowcod in them and Ms. Vojkovich said there is some cowcod habitat in some of these new MPAs. Mr. Lockhart asked if the closures were permanent and Ms. Vojkovich said yes.

Amendment 3 to Motion 9 carried (Mr. Myer voted no).

Ms. Vojkovich said she has concerns about the Other Fish specifications with longnose skate taken out of the complex. Perhaps taking the average recent catches of longnose skate from the Other Fish complex is a better way to go. A discussion of the derivation of the specifications for the Other Fish complex ensued, but no amendment to Motion 9 was offered on this subject.

Motion 9 as amended carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 10) to set a cowcod rebuilding year of 2072, which is the median year to rebuild under the harvest rate that produces the 4 mt OY in 2009 and 2010.

Motion 10 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 11) to change the darkblotched rebuilding year to 2028, which is two years earlier than the preliminary preferred alternative.

Motion 11 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 12) to tentatively establish EFP set-asides as found in Agenda Item F.3.a, Attachment 7. Mr. Moore asked if this was tentative and can be changed and Mr. Anderson said yes.

Motion 12 carried unanimously.

Mr. Sones moved and Mr. Warrens seconded a motion (Motion 13) to tentatively adopt the 2009-2010 tribal groundfish management measures outlined in Agenda Item H.5.b, Supplemental Tribal Report in April 2008. Mr. Anderson asked for a copy of the April tribal proposal and Mr. DeVore said it could be provided. Mr. Moore asked if the motion included proposals for 2009-10 tribal whiting fisheries and Mr. Sones said no, just for the other federally managed groundfish.

Motion 13 carried unanimously.

Mr. Anderson requested some analysis of the tribal whiting proposals for 2009 and 2010. The 2009 tribal whiting proposal was to change the whiting allocation from the sliding scale to a 20.5% allocation. He is uncomfortable in making a change in the allocation without a co-manager discussion. While he talked with all the tribes briefly, he has not engaged in serious conversations with the tribes. He would like two alternatives analyzed by the GMT. Preference would be to analyze a 17.5% allocation and a 20.5% allocation and the bycatch implications thereof. Use the 2008 whiting OY as a proxy in the analysis. He supports maintaining the stability of the Makah whiting fishery and fishery development in the Quileute and Quinault tribes. He would like to engage in a co-management process in the next six months before bringing a proposal back to the Council later.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 14) to have the GMT evaluate a 17.5% and 20.5% allocation of the U.S. whiting OY with a projection of the bycatch of overfished species. He also requested the subsequent whiting projections for the non-tribal sectors when presenting the results. Mr. Lockhart said NMFS will be setting these negotiations and Washington will be invited.

Motion 14 carried unanimously (Mr. Sones recused himself from the vote).

Mr. Anderson thought the next step should be allocation of yelloweye and other species. He would move his proposal, but it is predicated on a certain yelloweye allocation outcome. Ms. Vojkovich said the CDFG perspective on yelloweye catch sharing is contained in Agenda Item F.4.b, CDFG Report. She asked if anyone had questions about the report. Mr. Anderson said they reviewed the document and the WDFW perspectives have been offered in their supplemental report (Agenda Item F.4.b, Supplemental WDFW Report 1).

Ms. Vojkovich made some general statements about yelloweye catch sharing. This is the first management cycle where all three states have been constrained by yelloweye. California fisheries were constrained by canary all this time. Errors in past projections should be fixed at the very least. Using the scorecard for allocations is not a good thing to do, but it is continually used this way. Therefore, if the scorecard is used, there are different ways to use it. Adding up all the parts of the scorecard, California uses about 21% of the yelloweye OY. The 2006 stock assessment showed about 50% of the unfished biomass occurred in California. Current biomass is about 29% in California. Historical and commercial catches prior to 2000 show about 50% of the coastwide catch in California. The MRFSS database shows between 30-50% of the yelloweye catch has been in waters off California during a time period with very few recreational fishery constraints and unexpanded samples. This 30-50% number is where they have focused their attention when thinking about yelloweye catch sharing. The option that doesn't fit the California need is using the 2007 scorecard which has a California share of under 30%.

Mr. Williams said the concept of what is fair is interpreted many different ways. We are now managing the crumbs, every decision has a significant effect on somebody. Ports are gone in Oregon given the fishery cuts this year.

Mr. Anderson said each state's fishery is different and each port is different up and down the coast. He does not assume that a California port has the same issues as any Washington port and vice versa. The management measures WDFW has taken to reduce canary impacts have also reduced yelloweye impacts. Using catch history is problematic when considering yelloweye catch sharing. In developing the yelloweye assessment, it was almost impossible to speciate the historical catches. The primary index of abundance in the assessment is California recreational CPUE. The database is lousy for assessment. WDFW is trying to accumulate data to improve the assessment, which is difficult when there is no retention of yelloweye. The Washington fishery was increasingly restricted after the Boldt decision in the 1970s. The El Niños of the 1980s severely affected fisheries and turned people to groundfish. Then came the development of halibut fisheries. The fishery has been in significant transition in the last 30-40 years. Many of the decisions the Council has made recently were to distribute the conservation burdens of reducing harvest on yelloweye. This is the reason he recommends using more recent year distributions of sharing of overfished species when allocating those impacts. We all need to act cooperatively to develop an appropriate catch sharing plan for yelloweye. The 2008 scorecard may be inappropriate, but recent year catches should be considered. He is open to working with the other states on this. Washington does not have a winter fishery, so closing the winter season will not save additional yelloweye.

Ms. Vojkovich appreciates these statements and agrees there is always pain in these decisions. She recommended using the yelloweye catch shares shown on page 1 of Agenda Item F.4.b, Supplemental ODFW Report 3, to start this process.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 15) to have the GMT and GAP analyze 2009-2010 management measures using the yelloweye catch shares in Agenda Item F.4.b, Supplemental ODFW Report 3. While this may be problematic, it may be a good place to start.

Mr. Anderson said the document only pertains to yelloweye catch sharing. He added that he is supportive of the motion and using these catch shares to craft management measures. He recommended using the initial 2005 scorecard for catch shares for all other species in doing initial analysis. Some sectors may not need that amount of canary, but this may be a good place to start. Table 2-7 in Chapter 2 (Agenda Item F.4.a, Attachment 1) shows the canary amounts by sector.

Mr. Williams said there may be some sectors that won't need that amount of canary. Is it appropriate for the GMT to make adjustments in those cases? Mr. Anderson said perhaps we should talk about the yelloweye motion first.

Mr. Moore asked if the 2005 catch sharing of yelloweye in the Supplemental ODFW Report 3 should be used and Ms. Vojkovich said yes.

Motion 15 carried (Mr. Lockhart abstained).

Mr. Anderson asked what other species we may need allocation guidance for and Mr. Jones said canary was the next most important species.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 16) to have the GMT and GAP use Table 2-7 in Chapter 2 of the draft specifications EIS in Attachment 1 under the 2005 catch sharing scenario to develop management measures. Do not adjust catch shares to other sectors. He is concerned with managing up to the 105 mt canary OY.

Ms. Vojkovich said she is hesitant to go forward with just one canary catch sharing scenario. Mr. Anderson believes not all the canary shares will be used. If the directed open access sector needs more canary, then allocate up to the 5.8 mt of canary (i.e., the 2007 catch share) if needed.

Motion 16 carried (Mr. Lockhart abstained).

Mr. Williams moved and Mr. Warrens seconded a motion (Motion 17) to continue managing Washington and Oregon recreational fisheries with shared yelloweye and canary harvest guidelines, and continue using the status quo black rockfish shares of the southern black rockfish OY with California (i.e., 58% of the OY to Oregon fisheries and 42% to California fisheries). Include a 10 fish marine bag limit and 3 lingcod sublimit as outlined in Agenda Item F.4.b, Supplemental ODFW Report 3, and a year round sanddab fishery inside 40 fm.

Motion 17 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 18) to adopt the management measures in Supplemental WDFW Report 2, with the exception that the 2009 management measures indicated on page 1 be applied to 2010 given the decision to adopt the alternative yelloweye ramp-down strategy (i.e., 17 mt in 2009 and 2010) made earlier.

Motion 18 carried unanimously.

Mr. Anderson moved and Mr. Mallet seconded a motion (Motion 19) to adopt a 100 fm seaward boundary for the non-trawl RCA from the U.S.-Canada border to the Queets River from January 1 to June 30 and 125 fm thereafter.

Motion 19 carried unanimously.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 20) to adopt the management measures shown in Agenda Item F.4.b, Supplemental CDFG Report 3; including a cabezon bag limit of three in some areas, an increase in the bocaccio and greenling sublimits, elimination of gear restrictions for sanddabs and other flatfish, and identification of Alternative 6 on page 6 as the preferred alternative for the California recreational fishery.

Motion 20 carried unanimously.

Dr. McIsaac asked if that motion included bronzespotted restrictions and Ms. Vojkovich said no.

Mr. Wolford moved and Ms. Fosmark seconded a motion (Motion 21) to specify no retention of bronzespotted in 2009-2010.

Motion 21 carried unanimously.

Mr. Anderson explained WDFW may add YRCA number 9 shown in Figure 2-18 of the draft EIS (Agenda Item F.4.a, Attachment 1) on Friday.

Mr. Moore asked if the YRCAs in Agenda Item F.4.b, Supplemental CDFG Report 4 are included and Ms. Vojkovich said this would be considered on Friday.

Mr. DeVore asked for clarification on how to apportion 2009-10 widow and darkblotched yields between the trawl sectors. He asked whether to model a 25 mt darkblotched cap in the whiting fishery as per the GMT's recommendation and Mr. Anderson said yes.

Mr. Lockhart said he will be talking with his staff on the cowcod and yelloweye OY decisions and reserves his right to change his mind later in the week.

Mr. Myer asked if Amendment 10 covers maximized retention of catcher vessels in the mothership sector. Mr. Lockhart called for Ms. Becky Renko to come to the table. She said Amendment 10 prohibits discarding but does not require monitoring.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 22) to adopt option 1 for retaining the incidental catch of lingcod in the salmon troll fishery. This is for the fishery north of 40°10' N latitude. The previous concern for allowing lingcod retention by salmon trollers was a potentially higher canary bycatch. Now, with an increasingly abundant lingcod resource, he would like this considered. Ms. Vojkovich asked if it is okay to make the motion for north of 42° N latitude and Messrs. Anderson and Cedergreen accepted that as a friendly amendment.

Motion 22 carried unanimously with the friendly amendment.

Mr. Moore moved and Mr. Myer seconded a motion (Motion 23) to drop the seasonal release of bycatch limits in the whiting fishery as shown on page 75 of Agenda Item F.4.a, Attachment 1 from consideration. Mr. Myer said he prefers sector specific bycatch caps over a seasonal release strategy.

Motion 23 carried unanimously.

Mr. Anderson noted that a table in Chapter 4 of the draft EIS on page 148 described status quo limited entry fixed gear impacts for yelloweye of 1.5 mt, while the current scorecard indicates 2.2 mt of impact. Mr. DeVore explained the limited entry and open access model was updated with new discard rates obtained from the West Coast Groundfish Observer Program since the April meeting. Impacts for the limited entry fixed gear sector under the status quo RCA are now projected to be 1.5 mt.

F.5 Consideration of Inseason Adjustments

F.5.a Agenda Item Overview (06/11/08 8:11 am)

Mr. Merrick Burden provided the agenda item overview.

F.5.b Report of the Groundfish Management Team

Mr. Robert Jones read Agenda Item F.5.b, Supplemental GMT Report.

F.5.c Agency and Tribal Comments

None.

F.5.d Reports and Comments of Advisory Bodies

Ms. Mann read Agenda Item F.5.d, Supplemental GAP Report.

F.5.e Public Comment

Mr. Barry Cohen, Olde Port Fisheries/Del Mar, Avila Beach, CA

F.5.f Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2008 Groundfish Fisheries

Mr. Anderson moved (Motion 26) to adopt the following inseason modifications as shown in Agenda Item F.5.b, Supplemental GMT Report, page 10:

- Option 2 for the LE multi species trawl fishery.
- 1,000 lb per month limit in the OA sablefish fishery, south of 36° N. latitude for August.
- 2,100 lb per 2 month limit in the OA sablefish fishery south of 36° N. latitude for periods 5 and 6.
- Increase the daily limit in the LE DTL fishery north of 36° N. latitude to 500 lb.

Mr. Rod Moore seconded the motion. Motion 26 passed unanimously.

Mr. Anderson noted the scorecard on page 11, under yelloweye for the limited entry fixed gear, shows a value of 1.8 mt. Yesterday, the previous scorecard was 2.2 mt and during our discussion it was noted there was an updated value from observer information of 1.5 mt. Mr. Jones clarified that the updated

discard rate in the sablefish fishery was 1.5 mt and when you add 0.3 mt from the nearshore fishery you get a total value of 1.8 mt.

Mr. Wolford moved and Ms. Vojkovich seconded a motion (Motion 27), that should the state of California find the need to close the state recreational fishery between now and September, NMFS should review that action and consider adopting conforming regulations for Federal waters. Motion 27 passed unanimously.

Mr. Anderson spoke to the “ice and slime” working group requested by the GMT to further explore the needs of management, enforcement, and industry to determine a consistent method for reporting of round weight. He suggested a conference call coordinated by Council staff to fulfill the GMT’s request. Council concurred.

F.6 Amendment 20: Trawl Rationalization Alternatives

F.6.a Agenda Item Overview (06/11/08; 9:24 am)

Mr. Jim Seger provided the agenda item overview.

Responding to questions, Ms. Cooney said that any new options offered at this meeting should be brought up before public comment; linkages between co-ops and motherships can be done, but without congressional action, linkages between co-ops and shoreside processors could not be implemented due to the specifications in the Magnuson-Act; that an initial allocation of IFQ to processors is a policy call not a legal issue; and that restricting vessels with IFQ overages from participating in other federally managed fisheries, e.g., HMS, or CPS, or salmon would present challenges because of differences between what is regulatory action and what is punitive action. Going beyond the groundfish fishery gets more into an enforcement issue. Saying actions could be taken means there is legal authority to take the action, assuming there is an adequate record.

F.6.b Overview of the Analysis (06/11/08; 10:07 am)

Ms. Heather Brandon, Mr. Merrick Burden and Dr. Steve Freese provided PowerPoint presentations. Mr. Seger also included an overview of the analysis.

F.6.c Recommendations of the Groundfish Allocation Committee (1:52 pm)

Mr. Seger reviewed Agenda Item F.6.c, GAC Report and Agenda Item F.6.d, TIQC Report.

F.6.d Reports and Comments of Advisory Bodies

Dr. Steve Ralston provided Agenda Item F.6.d, Supplemental SSC Report. Ms. Heather Mann, along with Mr. Tommy Ancona provided Agenda Item F.6.d, Supplemental GAP Report. Mr. Jones provided Agenda Item F.6.d, Supplemental GMT Report. Mr. Dayna Matthews provided Agenda Item F.6.d, Supplemental EC Report.

Prior to start of public comment, Mr. Anderson shared some of his potential concerns regarding the alternatives and whether or not they are sufficient to cover the full spectrum of issues. With respect to potential geographic shifts in fishery patterns, while provisions to limit such shifts add complexity, he felt that the area management provisions have been discussed but are not well flushed out. He would like to look at a limited number of landing zones where a number of pounds might be maintained to keep product coming into ports. He also expressed concern about the base period for qualifying, noting that we will be

8 or 9 years out from 2003 by the time of implementation. In Washington there has been change in the shoreside whiting processing during that time and he is giving some thought to use of the Amendment 15 timeframes (2006) with respect to quota share (QS) going to processors. He requested public feedback on these issues.

F.6.e Public Comment (06/11/08; 3:27 pm)

Mothership Panel

Mr. Brent Payne, United Catcher Boats, Seattle, WA
Mr. Chris Garbrick, UCB, Seattle, WA
Mr. Bob Dooley, UCB, Seattle, WA
Mr. Steve Hughes, UCB, Seattle, WA

Mothership Processor Panel

Ms. Donna Parker, Arctic Storm, Seattle, WA
Mr. Mike Hyde, American Seafoods Company, Seattle, WA
Mr. Joe Birsch, Supreme Alaska Seafoods, Seattle, WA
Mr. John Henderscheit, Premier Pacific Seafoods, Seattle, WA

Panel

Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA
Mr. Marion Larkin, trawler, Mt. Vernon, WA
Mr. Ralph Brown, trawler, Brookings, OR
Mr. Pete Leipzig, Fishermen's Marketing Association, Eureka, CA

Panel, Representing 15 California Trawl Permits

Mr. Carl Campbell, trawler, Eureka, CA
(the others were not available to testify)

Panel

Mr. Joe Plesha, Trident Seafoods, Newport, OR
Mr. Allen Kimball, Processor, Trident Seafoods, Newport, OR
Mr. Chris Riley, Economist, Newport, OR

Panel

Mr. Mike Anderson, fisherman, Eureka, CA
Mr. Bruce Campbell, fisherman, Eureka, CA

Panel (solo)

Mr. Gary Winterstein, fisherman, Warrenton, OR

Panel

Mr. Jim Caito, Caito Brothers, Fort Bragg, CA
Mr. Rick Harris, Pacific Choice Seafoods, Eureka, CA
Mr. Curt Younker, Pacific Choice Seafoods, Charleston, OR

Panel

Mr. Tom Libby, Point Adams Packing Company, Warrenton, OR
Mr. Matt Love, Ocean Beauty Seafoods, Seattle, WA
Mr. Jerry Boiguert, Pacific Coast Seafoods, Warrenton, OR

Panel

Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA
Mr. Dennis Rydman, Ocean Gold Seafoods, Westport, WA
Mr. Francis Miller, Ocean Gold Seafoods, Westport, WA

Panel

Mr. Pierre Marchand, Jessie's Ilwaco Fish Company, Ilwaco, WA
Mr. Frank Dulcich, Pacific Seafood Group, Clackamas, OR
Mr. Mike Okoniewski, Pacific Seafood, Woodland, WA

Panel

Mr. Peter Huhtula, Pacific Marine Conservation Council, Astoria, OR
Ms. Laura Pagano, NRDC, San Francisco, CA
Ms. Jen Kassakian, The Ocean Conservancy, San Francisco, CA

Panel

Mr. Shems Jud, Environmental Defense, Lake Oswego, OR
Ms. Dorothy Lowman, Environmental Defense, Portland, OR
Mr. Will Stelle, Environmental Defense, Seattle, WA

Panel

Mr. Craig Urness, Pacific Seafoods, Clackamas, OR
Mr. Paul Bourke, Ukila Harbor Seafoods, British Columbia
Mr. Steve Spencer, Pacific Seafood Group, Clackamas, OR

Individuals

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR
Mr. Mark Bowers, trawler, Astoria, OR
Mr. Darin Reef, trawler, Astoria, OR
Mr. Wayne Edgerton, Bandon Pacific Seafoods, Newport, OR
Mr. Dave Wright, Bandon Pacific Seafoods, Newport, OR
Mr. Tony Vandecoevering, trawler, Garibaldi, OR
Mr. Omar Allison, trawler, Bellingham, WA
Mr. Steve Aarvik, F/V Wind Jammer, Lynnwood, WA
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Mark Cooper, Cooper Fishing Incl, Toledo, OR
Mr. Vince Doyle, F/V Verna Jean, Fort Bragg, CA
Master Robert Ranken, trawler, Astoria, OR
Mr. Dennis Ranken, trawler, Astoria, OR
Mr. James Burns, F/V Pacific Conquest, Coos Bay, OR
Mr. Jason Moon, F/V Grumpy J, White City, OR
Mr. Kevin Dunn, trawler, Astoria, OR
Mr. Michael Bell, The Nature Conservancy, San Luis Obispo, CA
Mr. Paul Kujala, F/V Cape Windy, Warrenton, OR
Mr. Jay Bornstein, Bornstein Seafoods, Bellingham, WA
Ms. Carol White, Bornstein Seafoods, Bellingham, WA
Mr. Jim Seavers, trawler, Newport, OR
Mr. Barry Cohen, Olde Port Fisheries/Del Mar, Avila Beach, CA
Mr. Mark Clay, trawler, Newport, OR

Minutes

June 6-13, 2008 (194th Council Meeting)

Mr. Steve Fitz, F/V Mr. Morgan, Moss Beach, CA
 Mr. Tom Estes, F/V Tara Dawn, Fort Bragg, CA
 Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR
 Mr. Bob Eder, pot fisherman, Newport, OR
 Mr. Brad Pettinger, Midwater Trawlers Cooperative, Newport, OR
 Mr. Todd Whaley, F/V Miss Sarah, Brookings, OR
 Mr. Jerry Bates, Bates Fish Company, Newport, OR
 Mr. Kelly Smotherman, F/V Miss Mary, Hammond, OR
 Mr. Bill James, fisherman, Salem, OR
 Mr. Brian Mosse, trawler, Nanoose Bay, British Columbia, Canada
 Mr. Robert Seitz, trawler, Chinook, WA

F.6.f Council Action: Adopt Alternatives for Analysis in a Preliminary Draft Environmental Impact Statement and a Preferred Alternative for Public Review (06/12/08; 10:25 am)

The Council action on this issue followed the motions in Agenda Item F.6.f, Supplemental WDFW Motion. The motions in that attachment were numbered one through fifteen. The following table provides a cross references between the motion as numbered in Agenda Item F.6.f, Supplemental WDFW Motion (Supp #) and the motions as numbered in the minutes (Min # for the Voting Log).

Motion numbering cross reference between Agenda Item F.6.f Supplemental WDFW Motion and the motions as numbered in the minutes.

Supp #	Min # (Voting Log)	Supp #	Min # (Voting Log)	Supp #	Min # (Voting Log)
1	28	6	33	11	38
2	29	7	34	12	39
3	30	8	35	13	40
4	31	9	36	14	41
5	32	10	37	15	43

Mr. Anderson presented Agenda Item F.6.f, Supplemental WDFW Motion. Dr. Dave Hanson asked Mr. Seger to address allegations that the cumulative limits were pulled out of the air and not discussed. Mr. Seger explained that the accumulation limits were initially developed by the TIQC based on distribution data for the nonwhiting fishery and later modified by the GAC based on additional information on the distribution of historic harvests for all trawl sectors.

Mr. Anderson noted that today’s action would be to adopt a preliminary preferred alternative, with the final Council action in November. It is likely that the preferred alternative will change to some extent as the Council learns more about the issues and impacts of the alternatives. He expressed appreciation both for those who had worked on the project and the high quality of public comment.

Mr. Anderson then spoke to the long period of policy consideration that has lead up to today, going back to a meeting in Gladstone in 1996. Discards and accountability for bycatch have been a major concern as well as overcapitalization. The analysis makes it clear that in order for the program to realize the benefits, a large amount of consolidation will have to occur; resulting in fewer people employed in this business. At the same time, we have all expressed our concern about consolidation and that there not be a disproportionate impact on some communities. This is a major challenge. Because of the high value placed on the impacts on communities, it is likely that the Council will make some tradeoffs that will prevent the program from reaching the full degree of economic benefit. It was mentioned with respect to the development of the mothership co-operative alternative that they sought a balance with no big winners or losers. We are trying to find a balance between sectors, between states, between vessels, between ports and between meeting conservation obligations and our responsibility to try to develop a regime that

maximizes economic benefits while at the same time realizing, recognizing and honoring the social effects of decisions.

Mr. Anderson moved to adopt the following as part of the Council's preliminary preferred alternative, (first motion in the Supplemental WDFW Motion): the Catcher-Processor sector would be managed under co-ops, the mothership sector would be managed under co-ops, the shoreside whiting sector would be managed under an individual fishing quota (IFQ) system or, pending approval of legislation, under co-ops, and the shoreside non-whiting sector would be managed under an IFQ system. Mr. Myer seconded the motion (Motion 28). In response to a question from Ms. Vojkovich, Mr. Anderson stated that his intent with respect to the two approaches for shoreside sector is to not indicate that one or the other is more preferred.

Mr. Lockhart announced that he would be abstaining on any vote that appeared to be mainly an allocation issue but will vote on the preferred alternative in its entirety once it is developed.

Ms. Vojkovich spoke in support of the motion, noting the need to address problems that exist under status quo management, goals of groundfish strategic plans, and need to reduce bycatch. This will help us rebuild our fisheries and communities. Mr. Williams stated that under status quo, many of the issues that have been more difficult and time consuming will be improved by this motion. Mr. Anderson noted his respect for the view that it might be better to make smaller changes to status quo than to move to a trawl rationalization program. Absent success with trawl rationalization we will need to take a hard look at those measures for modifying status quo. However, accountability through monitors on boats is going to be expensive. So, we are going to have to provide as much opportunity as possible for our fishers to access the healthy species. This system will allow them to do that more than what could be done working with our current system. Mr. Lockhart stated that moving toward an IFQ system is a major administration priority and that doing so provides better tools to manage bycatch, to potentially address community impacts, and even potentially address other conservation concerns. Motion 28 passed unanimously.

Mr. Anderson moved to adopt the following (Motion 29) as part of the Council's preliminary preferred alternative, (second motion in the Supplemental WDFW Motion):

Section A-1.1 "Scope for IFQ management, including gear switching"

Section A-1.2 "IFQ Management Units" – with the addition of a species option and options for geographic subdivisions:

Species Option. QS/QP will be for the species and species groups specified in the ABC/OY table produced as part of the biennial harvest specifications, with the exception of certain species rarely taken in the groundfish trawl fishery (TIQC recommendation) and spiny dogfish (consistent with GAC recommendation for Intersector Allocation), which is primarily a non-target species. The catches of these species would be accounted for and tracked against the overall OY. If a trawl allocation for any of these species is adopted in the future, then QS/QP for those species could be added at that time.

Geographic subdivisions. Either the geographic zone option specified in Supplemental WDFW Attachment 1 or the option currently specified in this section (split at 40° 10' North latitude) with no preference between those two options.

Section A-1.3 "Trawl Sectors" – Option 1: 3 trawl sectors

Section A.-1.6 "Groundfish Permit Length Endorsements" – Remove length endorsement

Ms. Vojkovich seconded Motion 29.

Mr. Anderson spoke to the advantages of allowing trawlers to switch to other gears as well as the

cautionary notes in the testimony of Mr. Bob Eder. These issues will need to be considered in the analysis. There was much testimony in support of three trawl sectors. The flexibility provided by a single sector for people to participate in to use QS in both makes some sense. The length endorsement allows easier consolidation to take place than if the length endorsement stays in place.

Mr. Moore moved to amend Motion 29 by adding an option to allow a permit holder to use an alternative legal gear for a two-year period after which the permit holder decides whether to continue to use the alternative gear or trawl gear. Mr. Warrens seconded the motion. Mr. Moore clarified that the entity bound to make the decision after two years would be whatever entity makes the decision on the gear used with QP under the current alternative. He stated that this option was brought forward by several of those testifying and may make sense for both conservation and economic reasons. During discussion Council members expressed concern that after two years permit holders might be forced to choose between totally abandoning trawl gear or switching completely back to trawl gear, reducing flexibility. This would need to be analyzed. Ms. Cooney and Mr. Lockhart stated that they thought inclusion of this option would help strengthen the analysis of gear switching. The amendment to the main motion passed. Ms. Fosmark voted no on the amendment to Motion 29.

Ms. Vojkovich expressed concern that dogfish would not be an IFQ species even though there is a directed fishery on it. Mr. Anderson responded that in the past there has been a trawl fishery directed on dogfish but with the advent of the RCAs the directed dogfish fishery has been with fixed gear. Motion 29 passed as amended unanimously.

Mr. Anderson moved to adopt (Motion 30) the following as part of the Council's preliminary preferred alternative, (the third motion in the Supplemental WDFW Motion):

Section A.2.1, for shoreside whiting and shoreside nonwhiting:

Allocate 20% of the QS to processors and 80% to harvesters (unless there is a co-op system).

Definition of Processor Option 1 – attribute history to the receiver reported on the fish ticket.

Mr. Myer seconded the motion. Mr. Anderson noted that this is one of the most difficult issues. He stated that he was convinced that we will put existing processors at a relatively high degree of risk if they are not given some portion of the QS. He noted that in the at-sea whiting fisheries we are providing processors with protection by closing the class of processor participants and through linkage provisions we are providing mothership vessels a high degree of stability and certainty. In contrast when he looks at the significant investment in shoreside whiting processing and the GAC recommendation to provide no QS to processors he is not finding a balance such that there are no big winners and losers. The appropriate percentage to go to processors to strike the balance is difficult to determine, 50% to processors would not represent a balance. He believed that 20% is an appropriate amount. For the nonwhiting shoreside sector it took longer to reach a conclusion. However, the testimony from smaller processors up and down the coast, in addition to testimony from those associated with large companies, was compelling and led him to believe that if all the QS goes to harvesters, the current disparity on the side of processors would shift in opposite direction.

Mr. Moore moved to amend Motion 30: Include Option 1 and Option 3 under shoreside whiting and nonwhiting as dual preferred alternatives pertaining to the rules for attributing processor history (Amendment #1 to motion 30). Mr. Warrens seconded the motion. Mr. Moore noted many circumstances in which the fish receiver on the ticket operates a dock and a hoist and that product is trans-shipped to the true processor. Mr. Anderson stated that he chose Option 1 because of the lack of documentation for Option 3 and the appeals process that would be entailed. Ms. Cooney noted the need for standards that would be used in the appeals process. This would have to be discussed between now

and November. Mr. Moore noted there are plant production records and in California there are transportation tickets as well. These types of records could be used to develop the criteria referenced by Ms. Cooney. Amendment #1 passed.

Ms. Vojkovich moved a substitute to the main motion: do not allocate QS to processors (Substitute Motion 30). Mr. Steve Williams seconded the substitute motion. Ms. Vojkovich stated that no new data has come out since she first provided the premises for the GAC recommendation that processors not receive an initial allocation of QS. The Appendix A analysis on competitiveness is still valid. There has been some buying of permits by processors and while some individual processors will not be getting shares the processing sector as a whole will receive QS based on their ownership of permits. With respect to the idea of providing QS to processors to promote community stability, there are other mechanisms in the package to better address this concern.

Mr. Williams voiced his agreement with Ms. Vojkovich. He did not believe that this will cause an imbalance of power and a great deal of the consolidation that will take place on the processing side has already occurred. This is fundamentally a harvester program.

Mr. Ortmann commented that Mr. Anderson's motion found a middle ground that while not making anyone completely happy might keep the program moving and be accepted by processors and harvesters. Mr. Ortmann noted statistics indicating a substantial decline in the number of buyers and processors along the coast and that the Council should not take actions that would contribute further to that decline.

Mr. Anderson stated that in the status quo bimonthly nonwhiting fishery, the processors have had excessive power, however, when the harvester has all of the QS it will put them in the position that the processors are in now. While some change in the balance is good, giving no QS to processors goes too far. Mr. Cedergreen expressed his agreement and noted his own experiences in watching infrastructure disappear in Westport. The current motion strikes a good balance. Ms. Fosmark noted that fishermen in her area are concerned that they need control of their fishery. If the fishery is healthy and the industry is healthy then the processors will get the fish. Based on the industry and how difficult it is for fisherman, giving all the QS to harvesters would be bringing power balance by allowing them to have control over the QS. Substitute Motion 30 failed.

Dr. Hanson noted that the Council is trying to strike a balance in an area where it is very difficult to know what the correct balance is. He stated that the shoreside whiting is different from the shoreside nonwhiting. Therefore he moved Amendment #2 to Motion 30: amend the motion to provide the shoreside nonwhiting processors 10% of the QS and 90% to harvesters. Mr. Lockhart seconded the motion to **facilitate discussion**. Dr. Hanson noted that there already was substantial vertical integration in the shoreside nonwhiting fishery and that 14 to 17 percent of the active vessels are operated by processors. If you add the QS that would go to these permits to the 20% proposed in the main motion, it tips the balance in favor of the processors. Mr. Moore noted that if WDFW's sixth motion (Motion 33) is adopted, there would be no grandfather clause and processors would not receive much of the allocation associated with those permits. Testimony had indicated that 10% was not a sufficient allocation. He believed that 20% represented a reasonable compromise. Amendment #2 failed. Motion 30 passed as amended.

Mr. Anderson moved to adopt (Motion 31) the following as part of the Council's preliminary preferred alternative, (the fourth motion in the Supplemental WDFW Motion)

In section A-2.1.2, Recent Participation

Permits – Recent participation not required

Processors – Motherships: 1000 mt or more of groundfish in any two years 1997-03

Processors – Shoreside:

Non-Whiting: Option 2 – 6 mt or more of deliveries from non-whiting groundfish in each of any three years from 1998-2003

Whiting: Option 2 – 1 mt or more of deliveries from whiting trips in each of any two years from 1998-2006

Mr. Myer seconded Motion 31.

Mr. Anderson noted that there is a table on the difference between nonwhiting processor recent participation Option 1 (1 delivery) and Option 2 (6 mt of deliveries) that shows that the number of processors qualified declines fairly substantially in moving from Option 1 to Option 2, particularly in California. For the whiting fishery Mr. Anderson's motion responds to the changes that have occurred in the processing industry since 2003. Those changes coincide with a significant change in the market from one largely reliant on surimi to one relying on the fillet market. Given the 8 year lapse from 2003 to when this program might be implemented he felt it unrealistic to not react to these market place changes.

Mr. William moved to amend Motion 31 by replacing 1998-2006 in the whiting recent participation option with 1998-2003. The amendment was seconded by Mr. Moore. Mr. Williams felt that the 2003 control date should be maintained for consistency and because the dates had been announced and publicized. People have been making business decisions based on those dates. He acknowledged concerns about the time which had passed since the 2003 date but felt that based on the notice provided and other factors, the balance favors maintaining the existing date. Mr. Anderson noted that the 2006 date proposed in his motion coincided with the closing of the qualifying period used in FMP Amendment 15. Mr. Lockhart indicated that he would vote in favor of this amendment because of the public testimony which indicated that many have relied on the 2003 date and that the Council's has been working hard and continuously on this project. To change the date would not be fair. The amendment passed (Messrs. Anderson, Myer, Cedargreen, and Sones voted no). Motion 31 passed (Mr. Lockhart abstained).

Mr. Anderson moved to adopt the following (Motion 32) as part of the Council's preliminary preferred alternative, (the fifth motion in the Supplemental WDFW Motion):

In Section A-2.1.3 Allocation Formula

Permits: Option 2 – an equal division of the buyback permits' pool of QS among all qualifying permits plus allocation of the remaining QS based on each permit's history. For the nonwhiting trip history based portion of the allocation: for non-overfished species use 1994-2003, dropping the 3 worst years; for overfished species use Overfished Species Option 2, bycatch rates. For whiting trip history use bycatch species Option 2, pro-rata based on whiting allocation.

Catcher-Processors: Bycatch Option 2 – pro-rata based on whiting allocation

Motherships: Bycatch Option 2 – pro-rata based on whiting allocation

Shoreside Processors:

Whiting Deliveries, Bycatch Option 1 – No bycatch allocation; whiting allocation only.

Whiting Deliveries, Bycatch Option 2 – Bycatch allocated pro-rata based on whiting.

Non-whiting Deliveries – For all species other than incidental species allocate QS based on entity's history for the allocation period of 1994-2003 (drop two worst years) and use relative history. For incidental species use same allocation options identified for permits.

Mr. Cedargreen seconded Motion 32.

Earlier in the discussion Mr. Anderson responded to a question on the rationale for whiting delivery bycatch Option 1. He stated that the issue with respect to an allocation to processors is the balance of power relative to the whiting resource. Through the analysis process we will determine how the bycatch amounts that would match the 20% whiting allocation would be dealt with. One issue will be whether or not we look at bycatch quantities by region. During this discussion, Mr. Anderson also commented on his concern that if the shoreside sector is managed as a single sector and bycatch species are allocated pro rata based on whiting, processors would end up with more bycatch than is necessary to prosecute their whiting QS. Mr. Moore noted that there are some processors that process whiting that do not process nonwhiting. They will still need to be allocated bycatch and therefore he supported the addition of the second whiting delivery bycatch option. In response to a question from Mr. Lockhart, Mr. Anderson noted that he included an equal allocation element to the formula because there was general agreement among industry that this was a fair approach, though it was not a consensus. There was also some input from the whiting sector that they are participating in paying back the loan and the benefits went to the nonwhiting sector in terms of the reduction in vessels. The equal sharing of the QS would help compensate for the fact that they are contributing but did not realize the benefits. Motion 32 passed.

Mr. Anderson moved to adopt (Motion 33) the following as part of the Council's preliminary preferred alternative, (the sixth motion in the Supplemental WDFW Motion):

In Section A.2.2.1, Permit/IFQ Holding Requirement, for situations in which a vessel has an overage under Sub-element 4: Allow exceptions for vessel to participate in the following non-groundfish fisheries: salmon troll; HMS troll/surface hook-and-line; Dungeness crab; all other HMS gears, except small mesh gillnet; and CPS purse seine. Specify that vessels are prohibited from participating in state trawl fisheries, such as pink shrimp, California halibut, ridgeback prawn, and sea cucumber, and small mesh gillnet. And, under Sub-element 6: Allow vessel to resume fishing after designated period of time depending on degree of violation (i.e., sliding scale based on amount of overage); e.g., minimum of 4 months (120 days) for 100 lbs plus an additional month for every additional 50 pounds of overage (1 mt overage = 44 months).

In Section A.2.2.2, IFQ Annual Issuance, the carryover allowance will not apply to QP that are not transferred to a vessel's account.

In Section A.2.2.3, IFQ Transfer Rules, the under Temporary Transfer Provision: QS will not be transferred in the first year of the program (QP will be transferable). Under Accumulation Limits: adopt the GAC recommendation as modified by TIQC (page 3 accumulations limits language, not page 4). And, under Grandfather Clause: use Option 3 – No grandfather clause.

Mr. Myer seconded Motion 33.

Mr. Anderson noted that there may be some legal issues related to prohibiting participation in state fisheries. Additionally, the Sub-element 6 tie-up provision will need some additional fleshing out. Regarding the grandfather clause accumulation caps, Table 2-4, the TIQC report included some accumulation limit modifications on page 3 of their report. The motion's reference to the GAC recommendations is a reference to the GAC's work on accumulation limits at a previous meeting.

Mr. Lockhart suggested that the period for prohibiting QS transfer run two years and coincide with the biennial management cycle. Allowing the QP transfer provides the needed flexibility and two years would provide a little more time to get used to the program. He moved to amend Motion 33 (Amendment #1 to Motion 33) to specify that QS will not be transferred in the first two years of the program (QP will be transferable). Ms. Vojkovich seconded the motion. Mr. Moore asked, if there is not going to be a grandfather clause and there is a prohibition on transfer, how will people divest themselves of excess QS?

Mr. Lockhart and Ms. Cooney noted there were several options possible: (1) not issue QS in excess of the accumulation limit, (2) allow the divestment after the transfer prohibition expires, or (3) issue QS and allow the divestment of the excess. Amendment #1 to Motion 33 passed.

Mr. Moore moved to amend Motion 33 to use the Option 2 grandfather clause (Amendment #2 to Motion 33). Mr. Warrens seconded the motion. Mr. Moore stated that he thought Option 1 made more sense but proposed Option 2 as a compromise. He noted that the Council had not previously taken action and not had some semblance of a grandfather clause. The grandfather clause for Amendment 14, the fixed gear sablefish program, was effective on the date the Council took final action. Amendment 15 was a type of grandfather clause. He does not know who will be affected and what the accumulation limits will be (there are still 3 options). Telling people who have invested capital when they had no idea what the accumulation limits will be that they will have to divest does not make sense. After discussion of whether or not a control date might be appropriate for the grandfather clause, Mr. Moore withdrew Amendment #2 and offered Amendment #3 to Motion 33: use the Option 2 grandfather clause instead of Option 3, with a control date of June 12, 2008. Mr. Anderson noted that we just finished setting a date for processor shares in which the Council refused to consider a date past 2004 and found a motion allowing accumulation of additional history through post 2004 acquisitions to be inconsistent with the earlier action. Amendment #3 failed (Messrs. Moore and Warrens voted yes). Motion 33 passed as amended unanimously.

Ms. Cooney noted that sub-element 6 gets into a line between what is implementation and what is punishment for violations. She would work with the proponents to further develop the option based on this concern.

Mr. Seger received clarification from the Council that it is their intent that if someone receives QS in excess of the accumulation limits, since there is no grandfather clause, they would not be granted the QS (i.e. they would not be given QS in excess of the accumulation limits then allowed to divest themselves of that QS).

Mr. Anderson moved to adopt the following (Motion 34) as part of the Council's preliminary preferred alternative, (the seventh motion in the Supplemental WDFW Motion):

In Section A.2.3.1, Tracking, Monitoring and Enforcement

Discards - T & M Program Alt 1: discards allowed; discards of IBQ required, under:

At-Sea Catch Monitoring - Non-whiting: T & M Program Alt 2: At-sea observers required

- Shoreside whiting: Observers would be required in addition to or as a replacement for video monitoring

- At-sea whiting: Observers would be required in addition to or as a replacement for video monitoring

- At-sea whiting motherships and catcher/processors: Remove reference to "Supplemental video monitoring on processors may also be used."

Shoreside Catch Monitoring – Include as specified

Catch Tracking Mechanisms – Include as specified

Cost Control Mechanisms - Landing hour restrictions: T & M Program Alt 2: Landing hours limited

Vessel Certification – Include as specified

Program Performance Measures – Included as specified

In Section A.2.3.3, Program Costs, Cost recovery Option 1 – Fees up to 3%

In Section A.2.3.4, Program Duration and Modification – Included as specified

Mr. Cedergreen seconded Motion 34.

In response to a question from Ms. Vojkovich, Mr. Anderson indicated that the language on at-sea whiting observers was intended to include mothership catcher vessels. Mr. Lockhart noted that allowing discards may raise the costs of the program. Motion 34 passed unanimously.

Mr. Anderson moved to adopt the following (Motion 35) as part of the Council's preliminary preferred alternative, (the eighth motion in the Supplemental WDFW Motion):

In Section A.3, Adaptive Management, Include as specified up to 10%, except would be sector-specific (consistent with GAC recommendation). The Council would specify through the biennial specifications process whether to set aside a portion for adaptive management for each sector, and the amount to be set aside (if any).

Mr. Myer seconded Motion 35.

Mr. Williams stated that he would support the motion but noted that other decisions on the preliminary preferred alternative have impacted harvesters and he is not sure we can afford the 10% set aside. There may be some other tools that might be used. Mr. Myers indicated that he does not believe the adaptive management program works well for the at-sea whiting fleet but if it is sector specific then it is worth considering. Dr. Hanson clarified that if no use for the potential set aside is established it would never be deducted from the QP that would go to QS holders. It was clarified that if the set aside is used, the method for reallocating would be developed as part of the biennial process. Motion 35 passed unanimously.

Mr. Anderson moved to adopt the following (Motion 36) as part of the Council's preliminary preferred alternative, (the ninth motion in the Supplemental WDFW Motion):

In Section A.2.4, Additional Measures for Processors, Option 2 – The accumulation limit grandfather clause will not apply for processing history (page 57)

In Section A.4, Pacific Halibut IBQ, Option: IBQ for Pacific halibut bycatch in the trawl fishery will be established

In Section A.5 Alternative Scope for IFQ Management Bycatch Management:

Option: IFQ will be required to cover all groundfish catch except for bycatch species taken on whiting sector trips.

Option 4 – Separate bycatch caps by whiting sector with a roll-over provision

In Section A.6 Duration, Fixed Term (and Auctions): Option: None

Mr. Cedergreen seconded Motion 36.

Mr. Moore moved to drop Option 2 (Section A.2.4) from the main motion and to have the GAC and TIQC develop appropriate accumulation limits for processors (Amendment #1 to Motion 36). Mr. Warrens seconded the amendment. Mr. Moore noted that the caps were developed for vessels but not processors. Mr. Hanson asked about the criteria that might be used to determine the appropriate limits. Mr. Moore withdrew Amendment #1 and offered Amendment #2: drop Option 2 from main motion (the accumulation limit grandfather clause will not apply for processing history). Mr. Warrens seconded the motion. It was noted that the Council's preliminary preferred alternative did not include an accumulation limit grandfather clause. Amendment #2 to Motion 36 passed. Mr. Lockhart voted no.

Mr. Lockhart stated that dropping the fixed term and auction is inappropriate. We are going ahead with a

powerful tool with widespread affects and we don't know what is going to happen with respect to balance of power. It is going to make wholesale changes. Fixed terms addresses one of the concerns about the IFQ program, that we are going to create something that is going to last forever. We talked about something that is going to have flexibility. There may be unintended consequences and the fixed term and auction gives us that flexibility. It states that 0-20% would be auctioned off. If things are going well, having no auction is an option. In response to people that say a fixed term does not provide the needed stability, he noted that if after 15-16 years we have not gotten this figured out we'd have to reconsider the whole program anyway. Therefore, Mr. Lockhart moved that under A.6 Duration: Fixed Term (and Auctions): amend the main motion to include the language on page 59 (A-6) as the preliminary preferred alternative, including Reallocation Option 2 (Amendment #3 to Motion 36). Ms. Vojkovich seconded the motion. Amendment #3 Failed. Mr. Moore, Mr. Myer, Mr. Williams, Ms. Fosmark, Mr. Sones, Mr. Ortmann, Mr. Warrens, Mr. Anderson, and Mr. Mallet voted no.

With respect to the main motion, it was noted that Section A-5 would modify some of the previous motions. Mr. Anderson stated that his intent was to continue to have an alternative scope that provided an opportunity to manage the whiting fishery bycatch species that have caps, other than the overfished species as we do today. For example, now yellowtail that is in a block and we take out a proportion of the yellowtail OY and assign it to the shoreside whiting sector as an assumed bycatch of a non-overfished species. We wouldn't assign a particular quota share for those types of species under this kind of program. He stated he would be amenable to removing it from the preliminary preferred alternative. Dr. Hanson moved to remove the option that would require IFQ to cover all groundfish catch except for bycatch species taken on whiting sector trips. Ms. Fosmark seconded the motion. (Amendment #4 to Motion 36). Amendment #4 passed (Mr. Lockhart voted no). Motion 36 passed as amended.

Mr. Anderson moved to adopt the following (Motion 37) as part of the Council's preliminary preferred alternative, (the tenth motion in the Supplemental WDFW Motion):

- In Section B.1.2 Annual Whiting Rollovers, Option 1 – there will not be a rollover of unused whiting from one sector to another.
- In Section B.1.3 Bycatch Species Management, Subdivision Option D – subdivide among whiting sectors and within sectors, subdivide between co-op and non-co-op fishery and among co-ops within sectors.
- In Section B.1.3.2 Bycatch Management,
 - Strike seasonal allocation alternatives
 - Rollover Option 1 – unused bycatch may be rolled over from sector to another if the sector's full allocation of whiting has been harvested or participants do not intend to harvest the remaining sector allocation
 - Bycatch Buffer Option 2 – for the non-co-op fishery, there will not be a buffer; the fishery will close based on projected attainment of its allocation
- In Section B.1.4 At-sea Observers/Monitoring – As specified
- In Section B.1.5 Mandatory Data Collection – As specified
 - Require annual co-op reports to the Council
- In Section B.1.6 Adaptive Management
 - Option: Sector-specific consistent with Motion #35

Mr. Mallet seconded Motion 37. There was no discussion. Motion 37 passed unanimously.

Mr. Anderson moved to adopt the following (Motion 38) as part of the Council's preliminary preferred alternative, (the eleventh motion in the Supplemental WDFW Motion):

- In Section B.2.1, Participation in the Mothership Sector –

Catcher vessels and processors – As specified

Vessels Excluded Option 1 – Motherships operating as a C/P may not operate as a mothership during a year in which it also participates as a C/P

In Section B.2.2.1, Endorsement and Qualification History Assignment

Qualifying for a CV (MS) Whiting Endorsement, Option 2 – 1994 through 2003; Catch History Assignment – Best 8 out of 10 years from 1994 through 2003

Whiting Endorsement Transferability and Endorsement Severability: Transfer Option 2 – the CV whiting endorsement may be severed from the permit. CV permit may not be transferred to a vessel engaged in the processing of whiting in the year of the transfer.

Accumulation Limit – Equal to amount of largest current owner; no grandfather clause. Current owner would be defined as the date as of which the program goes into affect.

Mr. Cedergreen seconded Motion 38.

Mr. Anderson noted the controversy with respect to Option 1 for Section B-2.1. He chose this option as a placeholder since it has been presented as the option favored by those representing the majority of the mothership coops. There has been additional analysis since the GAC meeting that he has not had a chance to review so at this time he is not prepared to change what came out of GAC but may recommend modifications after he reviews the analysis. Mr. Anderson clarified that his intent under B-2.1 is to prohibit the use of a catcher vessel permit on a vessel that is processing. Motion 38 passed. Mr. Lockhart abstained.

Mr. Anderson moved to adopt the following (Motion 39) as part of the Council's preliminary preferred alternative, (the twelfth motion in the Supplemental WDFW Motion):

In Section, B.2.2.2 Mothership Processor Permit

Qualifying Entities: Option 2 – the owners of qualifying motherships will be issued MS permits

Qualification Requirements: Minimum requirement of 1000 mt of whiting in any two years 1997-03

Transferability: MS permits will be transferable and MS permits may be transferred to a vessel of any size; and

Paragraph 3) Option 1 – MS permits may not be transferred to a vessel engaged in the harvest of whiting in the year of the transfer; and

Paragraph 4) Option 3 – MS permits may be transferred two times during the fishing year.

Usage Limit: Option 4 – No individual or entity owning a MS permit may process more than 40% of the total mothership sector whiting allocation

In Section B.2.3, Co-op Formation and Operation Rules, Co-op Formation Option 2 – Multiple co-ops are not required, but may be voluntarily formed

In Section B.2.3.3, Co-op Agreement Standards – As presented, modified based on guidance from November 2007

Mr. Moore seconded Motion 39. Mr. Anderson explained that 40% was selected rather than 50% to guarantee at least 3 motherships participate in years of low abundance. There was not additional discussion. Motion 39 passed. Mr. Lockhart abstained.

Mr. Anderson moved to adopt the following (Motion 40) as part of the Council's preliminary preferred alternative, (the thirteenth motion in the Supplemental WDFW Motion):

- In Section, B.2.4 Processor Ties, Option 4 – Permits will be obligated to deliver 90% of their catch (the permits’ “obligated deliveries”) to certain motherships, as specified below
- In Section B.2.4.1, Formation and Modification of Processor Tie Obligations, Option 4 – If the permit chooses to participate in a co-op its obligated deliveries must go to the licensed mothership to which the permit made a majority of its whiting deliveries in 2009
- In Section B.2.4.2, Flexibility in Meeting Processor Tie Obligations – As specified
- In Section B.2.4.3, Mothership Processor Withdrawal – Mutual agreement required; neither option applies

Mr. Mallet seconded Motion 40.

In speaking to the motion, Mr. Anderson noted that the recommendation from the GAC was supportive of 100% processor ties for motherships. This provision requires catcher vessels to operate for one year in an open access mode (non-co-op fishery) in order to deliver to a different mothership as part of a co-op in a subsequent year. Based on his discussion with those involved with the north Pacific co-op systems, and to the best of his knowledge, there are no co-op systems in the north Pacific that require a 100% tie. The 90% option provides a high degree of certainty for motherships and a greater degree of opportunity and flexibility for catcher vessels to change between motherships without some of the risks associated with trying to change with a 100% tie. Mr. Anderson also noted that by specifying 2009 as the “current year,” on the one hand it will allow people to plan for making the needed arrangements with processors in the year prior to implementation, on the other hand it could create some problems in the 2009 fishery as people jockey for position. Ms. Vojkovich spoke to her support for co-ops but dislike for the linkages. She supported inclusion of the 90% tie option based on the flexibility it provided vessels to move into co-ops without being forced into the non-co-op fishery. Motion 40 passed unanimously.

Mr. Anderson moved to adopt the following (Motion 41) as part of the Council’s preliminary preferred alternative, (the fourteenth motion in the Supplemental WDFW Motion):

- In Section B.4, Co-ops for Catcher-Processors – As specified; include the following:
 - Limited entry permits registered to qualified CP vessels will be endorsed as CP permits.
 - Specify harvest amounts in regulation for co-op members
 - Require unanimous consent for members to leave the co-op.
 - Mandatory Data Collection
 - Annual co-op report requirement
 - Bycatch: The fishery will close based on projected attainment of its allocation

Mr. Myer seconded Motion 41.

Ms. Cooney stated there may be a problem with requiring unanimous consent to leave a co-op. Co-op groups can do that but its hard for us to require it. Dr. Hanson moved to amend Motion 41 by striking the unanimous consent requirement. Mr. Fosmark seconded the motion. Amendment #1 passed.

Dr. Hanson asked that Dr. Steve Freese come forward and explain the results of discussions on how the catcher-processor fishery might be managed if the co-op system failed. Dr. Freese stated that in the event the voluntary co-op failed it had been proposed that the fishery be moved quickly into an IFQ program by dividing up the catcher-processor allocation among each of the existing 10 catcher processor permits.

Mr. Myer moved to amend Motion 41 by specifying that in the case of the breakup of the co-op the quota will be equally shared among the 10 catcher processor permits. The motion was seconded by Mr. Moore.

Mr. Lockhart stated that there was question as to whether the catcher-processor co-op proposal is a LAP and subject to the 3% maximum fee. Under the proposed Amendment #2, if they break up they will be a LAP but as the motion is written now they would not be. Ms. Cooney indicated that if the allocation is issued to the co-op and the co-op is required to have a permit then the program would be a LAP but if the co-op is not required to hold a co-op permit then it would not be a LAP. Amendment #2 passed.

Ms. Vojkovich asked about the language stating “Specify harvest amounts in regulation for co-op members.” Mr. Anderson indicated that it was his understanding that to make this enforceable a regulation is needed to specify that the harvest amounts that go to individual members.

Mr. Lockhart said that under the program, as currently designed, the catcher-processor sector would not be under a LAP, unless it broke up, and therefore not subject to a fee. He has heard argument that the catcher-processor sector voluntary co-op costs much less to manage and therefore should not be subject to the fee. However, they gain the benefit of the LAPs of the other whiting sectors. It is fair for them to be subject to the fee because they are part of the overall LAP system. They are being granted a privilege and access to a public resource. Therefore, Mr. Lockhart moved to amend the motion to specify that permits would be issued to co-ops (Amendment #3 to Motion 41). Ms. Vojkovich seconded the motion.

Mr. Moore asked about the benefits the catcher-processor co-op would receive. Mr. Lockhart stated that under current management, bycatch of other sectors affects the catcher processor co-op. Under the new system, that effect is reduced substantially, therefore they are getting a benefit from the program but they are not subject to the 3% fee. Mr. Anderson noted that they are being asked to pay for the cost of government regulations to clean up another sector. Mr. Lockhart stated he viewed it as they are gaining dedicated access to a public resource not just the costs of running the system. Mr. Myer said that the catcher-processor co-op has been doing fine on its own and that they would gain very little for a fee that he does not believe is warranted. Mr. Lockhart responded that they are not running fine citing the large bycatch tow that occurred recently, in part, because of the current system. The new system will allow them to fish at different times. Mr. Anderson commented that there are many people gaining access to a public resource that are not paying a 3% fee. If there is a fee it should be proportional to the costs of their participation in the program. Amendment #3 failed (Messrs. Lockhart and Williams voted yes; Ms. Vojkovich abstained). Motion 41 passed as amended.

Ms. Fosmark moved that there be a referendum prior to implementation. Mr. Moore seconded the motion. (Motion 42). Ms. Fosmark noted that she had heard much testimony in support of status quo and that this is a groundbreaking move that will have an affect on other fisheries down the road. It is therefore important that people be happy with what we have. This would be a safety net to make sure it is what we truly want. After further discussion she withdrew the motion because her intent would have been to have the referendum prior to Council action and there would not be time prior to the November Council meeting.

Mr. Anderson moved to adopt the Trawl Rationalization package (Groundfish FMP Amendment 20) for public review with the Council’s Preliminary Preferred Alternatives as specified in the Motions and Amendments identified in Motions/Amendments 28 through 41 (Motion 43). Motion 43 passed unanimously without further discussion.

Mr. Seger stated that they would be scheduling hearings for the week or two prior to the November Council meeting and the Council staff will be in touch with the states regarding dates and locations.

F.7 Council Clarification of Tentatively Adopted 2009-2010 Groundfish Harvest Specifications, Management Measures, and Rebuilding Plan Revisions (if Needed)

F.7.a Agenda Item Overview (06/12/08; 8:01 am)

Mr. DeVore provided the agenda item overview.

F.7.b Agency and Tribal Comments

None.

F.7.c Reports and Comments of Advisory Bodies

Mr. Jones asked for clarification on two issues. He explained that the WDFW request to analyze moving the seaward boundary of the non-trawl RCA to 125 fm north of the Queets River for part of the year cannot be modeled since the discard rates from the West Coast Groundfish Observer Program (WCGOP) are stratified north and south of Pt. Chehalis, not the Queets River. If the line was moved north of the Queets River, an effort shift due south of the Queets River would estimate the same impacts since the discard rates are the same between Pt. Chehalis and the Queets River. However, if the line was moved north of Pt. Chehalis, there would be a 0.3 mt savings of yelloweye. There is also no way to model a seasonal change in the non-trawl RCA configuration since the primary sablefish fishery can occur any time between April 1 and October 31. Therefore, there is no way to predict effort over time.

The second issue is yelloweye catch sharing. There are 11 mt of yelloweye impacts that can be apportioned in directed groundfish fisheries next year. Based on the tentative set-aside of 0.4 mt of yelloweye for 2009 EFPs, the GMT needs to model for a directed fishery take of less than 11 mt. The GMT is seeking guidance on whether some that EFP set-aside should be allocated to directed fisheries if needed.

Mr. Anderson said the reason to move to 125 fm in 2010 was to reduce yelloweye impacts to 14 mt. If the strategy is to move the non-trawl RCA north of the Queets River, then observations from the 2009 fishery could inform impact projections for 2010. However, given model limitations, Mr. Anderson suggested modeling RCA line changes north of Pt. Chehalis instead. He still wanted to see a seasonal line change north of Pt. Chehalis to 125 fm starting in July. Mr. DeVore explained that the GMT was not necessarily modeling for lower impacts in 2010 given the Council's adoption of the alternative ramp-down strategy of 17 mt of yelloweye impacts in 2009 and 2010. However, if the Council wants to see more conservative management measures in 2010, then the GMT can model that. Mr. Anderson thought the plan was to implement a 125 fm non-trawl RCA line change in 2010. Mr. DeVore said there needs to be consideration for a 125 fm line change in 2009 to get down to the 17 mt OY. Also, observations of discard rates of species due to line changes made in 2009 will not be available for 2010 management consideration since it takes more than a year to obtain WCGOP data. Mr. Anderson recommended modeling impacts from moving the non-trawl RCA north of Pt. Chehalis starting in 2009.

Mr. Williams suggested that the EFP set-asides for yelloweye may not be sacrosanct and the GMT can use some of that yield for directed fisheries. He also suggested that some of the research set-aside could be used for directed fisheries. Mr. Jones explained the GMT is still working on projections of research take. Also, NMFS and the Council have no control over research efforts, so using some of those yields may not be appropriate. Mr. Williams said some of the research anticipated next year is state-directed, so there may be some flexibility to use some of the research yields. Mr. DeVore said the GMT could stratify the projected research take into the component projects (i.e., the IPHC survey and the state-directed yelloweye research efforts).

Mr. Williams asked the GMT to evaluate a 20 fm non-trawl RCA boundary from 40°10' N latitude to Cape Blanco as well as a 20 fm boundary from 40°10' N latitude to Cascade Head. He specifically wanted to see if fishing out to 30 fm north of Cape Blanco can be accommodated since that area is important for commercial lingcod fishing.

F.7.d Public Comment

Mr. Darby Neill, Virg's Sportfishing, Morro Bay, CA
Ms. Laura Pagano, NRDC, San Francisco, CA

F.7.e Council Discussion and Guidance

No further guidance to the GMT was provided.

F.8 Final Consideration of Inseason Adjustments (if Needed)

This agenda item was cancelled.

F.9 Final Adoption of 2009-2010 Groundfish Harvest Specifications, Management Measures, and Rebuilding Plan Revisions

F.9.a Agenda Item Overview

Mr. DeVore provided the agenda item overview.

F.9.b Agency and Tribal Comments

The state representatives appreciated the time dedicated this week to negotiate solutions for 2009-2010 management measures.

Mr. Sones appreciated the tribes' efforts this week to negotiate a 2009 tribal whiting allocation.

F.9.c Reports and Comments of Advisory Bodies

GMT Report

Mr. Jones provided Agenda Item F.9.c, Supplemental GMT Report.

Mr. Moore referred to the tribal whiting impacts on page 3 of the report. He asked why the non-tribal sector impacts are the same under the first two scenarios (1a and 1b) and different under the third scenario (1c). Mr. Jones said that was because the first two scenarios assumed a 17.5% tribal whiting allocation and the third scenario assumed a 20.5% tribal whiting share. Mr. Moore asked if the bycatch reduction for non-tribal sectors was due to less available whiting and Mr. Jones said yes.

Mr. Moore referred to Table 2 on page 5 of the GMT report and asked why the EFP yelloweye set-aside was 0.4 mt and Mr. Jones said the set-aside should be 0.3 mt with a total 5.7 mt yelloweye set-aside.

Mr. Moore asked if rolling over unused yields from whiting bycatch caps to other whiting sectors, as referenced on page 20 of the GMT report, can be done as a routine inseason adjustment. Mr. Jones said it

was his understanding that this can be done if the EIS package was explicit about the roll-over mechanism being similar to the roll-over mechanism for unused whiting quota.

Mr. Williams asked if the Council can have a different catch sharing scenario than in the GMT statement on page 24 for yelloweye and Mr. Jones said yes.

Ms. Vojkovich asked about the possibility that 2009-10 IPHC surveys may reduce the number of skates deployed in their survey based on the 2008 standard survey. Mr. Jones said we are uncertain if the 2009 and 2010 surveys will increase the number of skates, but assume the standard survey will occur. The 2007 standard survey using five skates took between 0.4 mt to 0.5 mt of yelloweye.

Dr. McIsaac gave kudos to Mr. Jones for his good work this week.

Ms. Cooney said the processor exemption draft language on page 22 should include an exemption for freezing whiting at sea.

GAP Report

Ms. Mann provided Agenda Item F.9.c, Supplemental GAP Report.

Ms. Mann said the GAP did fully evaluate the final GMT report. Therefore, GAP members may speak to some of these issues during public comment.

Mr. Moore asked about the GAP recommendation to take EFP set-asides from the sector for which the EFP is taking place and asked which sector the TNC EFP bycatch caps might come from. Ms. Mann said she did not know.

Mr. Moore asked about the GAP recommendation for a pro-rata distribution of sector-specific bycatch caps. Did the GAP recommend a roll-over mechanism of unused bycatch limits in the whiting fishery and Ms. Mann said there was no GAP consensus on a roll-over mechanism.

Mr. Moore asked if there was discussion on depth restrictions in the whiting fishery and Ms. Mann said recommendations are anticipated under public comment.

Mr. Moore asked about gear switching in the limited entry fixed gear sector and what is needed in this decision to do this. Mr. DeVore said an FMP amendment would be needed. The GMT contemplates additional analysis in the DEIS to do this. He deferred to Mr. Lockhart and Ms. Cooney on what else might be needed. Ms. Cooney agreed additional analysis may be needed and there may be a need for a separate rulemaking. Mr. Lockhart reminded the Council of the Office of Management and Budget restrictions on non-essential rulemaking before the next administration is ensconced in office.

Mr. Myer asked if there was GAP discussion on monitoring catcher vessels delivering to motherships and whether that should be electronic or human observer monitoring and Ms. Mann said that was not discussed.

Mr. Anderson asked about the GAP recommendation to take EFP set-asides from the sector it affects and Ms. Mann said this was more of a philosophical discussion that the take should come from the sector it might affect.

Mr. Anderson asked if the limited entry trawl option 1 management measures recommended by the GAP are the measures shown on page 17 of the GMT report and Ms. Mann said yes.

Dr. McIsaac commended the chair of the GAP and asked if the GAP would reference previous statements regarding meeting the needs of communities associated with recommended management measures and Ms. Mann said yes. The GMT recommendations represent the best options for communities given constraints for 2009-10. She added that public comment will elaborate on this issue.

EC Report

Deputy Chief Mike Cenci provided oral testimony on 2009-10 management measures. He pointed out that more complex RCA management does raise enforcement concerns, but he appreciated the networking with the GMT and believes many of the recommendations on enforcement issues in the GMT statement should stand. He also recommended the need for electronic monitoring of catcher vessels delivering to motherships as recommended by the GMT.

F.9.d Public Comment (10:49 am)

Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR
Mr. Bob Alverson, Fishing Vessel Owners Association, Seattle, WA
Mr. Michael Deach, Longliner, Bellingham, WA
Mr. Robert Ingles, Golden Goat Fishermen's Association, Hayward, CA
Mr. Kenyon Hensel, Hensel's, Crescent City, CA
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA
Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, CA
Mr. Mike Okoniewski, Pacific Seafood, Woodland, WA
Mr. John Bundy, Glacier Fish Company, Seattle, WA
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA
Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR
Mr. Tom Libby, Point Adams Packing Company, Warrenton, OR
Mr. William Smith, F/V Riptide, San Francisco, CA
Mr. Rhett Weber, Westport Charterboat Association, Westport, WA
Mr. John Holloway, Recreational Fishing Alliance, Portland, OR
Mr. Tom Ghio, Ghio Fish Company, Santa Cruz, CA
Ms. Julie Sherman, The Marine Fish Conservation Network, Portland, OR

F.9.e Council Action: Adopt Final 2009-2010 ABC, OY, Management Measures, and Revised Rebuilding Plans for Overfished Species

Mr. Anderson pointed out some errors in Table 11 on page 24 of the GMT report, which depicted yelloweye impacts by sector with associated set-asides for tribal fisheries, incidental open access and research fisheries. Mr. Jones said he would double check the values in that table and print a revised table during the 20 minute break. Chairman Hansen then called for a 20 minute break.

After the break, Mr. Jones provided the revised Table 11 in Agenda Item F.9.b, Supplemental GMT Report 2. There were no questions from the Council.

Mr. Sones moved and Mr. Cedergreen seconded a motion (Motion 48) to adopt the tribal proposal as shown in Agenda Item F.9.b, Supplemental Tribal Report 2.

Motion 48 carried unanimously.

Mr. Anderson said the Makah Tribe entered the whiting fishery about ten years ago. Co-managers held discussions at that time to determine a set-aside amount for the tribal whiting fishery, which was not linked to a quantification of the treaty right. The Makah Tribe has managed the fishery well to stay within bycatch limits. There was some interest at that time by the Quileute Tribe to fish whiting but have not done so as of yet. Now they are looking to fish whiting in 2009 and the Quinalts intend to do so in 2010. We have not had a proposal yet on a tribal whiting set-aside. This week, the tribes, NMFS, and Washington have developed a 2009 proposal and look forward to developing an agreement for 2010 and beyond.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 49) to adopt the following:

That the Council establish a 50,000 mt tribal set-aside of Pacific Whiting for the 2009 season only. The Makah Tribe will be responsible for managing 42,000 mt of the set-aside including the bycatch amounts associated with this portion of the set-aside as identified by the GMT. The Quileute Tribe will be responsible for managing 8,000 mt of the set-aside including the bycatch amounts associated with this portion of the set-aside.

Each tribe is expected to submit to NMFS a management plan for their whiting fisheries including provisions for catch accounting, monitoring of bycatch of overfished species, and timely inseason reporting to NMFS of such catch and bycatch.

The Council requests that NMFS convene the co-managers, including the states of Oregon and Washington and the Washington coastal treaty tribes, in government-to-government discussions to develop a proposal for 2010 and subsequent years for tribal set-asides of Pacific Whiting.

Mr. Lockhart thanked Mr. Anderson and the tribes for their negotiations this week to develop a 2009 tribal whiting proposal. Mr. Sones echoed those thanks.

Motion 49 carried (Mr. Sones recused himself from the vote).

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 50) to adopt final 2009-10 ABCs, OYs, and management measures as described in Agenda Item F.9.c, Supplemental GMT Report with the following changes:

- Adopt a black rockfish sharing plan in 2009-10 as specified in the previous motion under Agenda Item F.4 (Motion 17), which would apportion the southern black rockfish OY with 58% for Oregon fisheries and 42% for California fisheries;
- Adopt EFP set-asides as shown in Agenda Item F.3.a, Supplemental Attachment 7, with the modification that the yelloweye set-aside is 0.3 mt;
- Adopt a non-trawl seaward RCA boundary of 125 fm between Cape Blanco and Cascade Head, except on days when the directed halibut fishery is open (the seaward boundary remains at 100 fm on halibut fishing days);
- Increase trip limits for the Conception area limited entry and open access sablefish daily-trip-limit fishery as shown on page 16 of the supplemental GMT report;
- Mandate logbooks for the limited entry and open access fixed gear fleets;
- Adopt option 1 management measures for the limited entry non-whiting trawl fishery, which is shown on page 17 of the supplemental GMT report;
- Adopt sector-specific bycatch limits for the limited entry non-tribal whiting fleet based on the percentages used to allocate whiting quota between the three sectors;

- Establish a roll-over provision for unused bycatch limit yields, such that when a whiting sector is closed by attaining its whiting allocation or if it is closed by projected attainment of a sector-specific bycatch limit, any remaining yield of the bycatch limit is distributed to the other non-tribal whiting sectors using the same pro-rata apportionment used to allocate whiting quota and sector-specific bycatch limits;
- Require electronic monitoring for catcher vessels delivering whiting to motherships;
- Prohibit discards by catcher vessels in the mothership sector;
- Require 100% observer coverage for shore-based whiting vessels that sort at-sea;
- Provide an exemption from the at-sea processing rule for small vessels ≤ 75 feet in length that participate in the shore-based whiting fishery to allow freezing and tailing of whiting;
- Adopt a regulatory provision to allow NMFS to impose depth-specific closures using the specified depth-based management lines in the 75 fm to 150 fm zone in the non-tribal whiting fishery by sector, if a sector is projected to attain a bycatch limit prior to attaining their whiting quota;
- Adopt the yelloweye rockfish harvest sharing plan shown in alternative 2 in the revised table 11 as shown in Agenda Item F.9.b, Supplemental GMT Report 2.

Mr. Moore explained all these management measures were GMT recommendations agreed to by the GAP. The regulatory provision for depth-based closures in the whiting fishery was recommended by the GAP. The rollover provisions and sector-specific bycatch limits using the pro-rata distribution of whiting were recommended by industry in public testimony. Analysis of roll-over mechanisms was included in the GMT report. The alternative 2 yelloweye rockfish catch-sharing scenario is the one negotiated all week in this process and seems to optimize the limited available yield of yelloweye across all sectors.

Mr. Lockhart asked for clarification on the small vessel exemption for sorting at sea. He asked if the 100% observer requirement means the vessel owner pays for NMFS-certified observers and Mr. Moore said yes. Mr. Lockhart asked if the electronic monitoring requirement for catcher vessels in the mothership sector would apply to 100% of the catcher vessels in that sector and Mr. Moore said yes. Mr. Lockhart asked if the recommended small vessel exemption from at-sea processing rules would apply the language in the GMT report with the addition of freezing as recommended by Ms. Cooney and Mr. Moore said yes. Mr. Lockhart asked if the roll-over of unused whiting is part of the motion and Mr. Moore said the existing language in federal regulations would serve.

Ms. Cooney asked about the 125 fm non-trawl restriction and Mr. Moore said that would be for all non-trawl fisheries except halibut, which would be restricted to seaward of the 100 fm line between Cape Blanco and Cascade Head. Mr. DeVore clarified the GMT recommendation for the 125 fm restriction between Cape Blanco and Cascade Head applied to all non-trawl fixed gear fisheries; however, the 100 fm line would apply for all non-trawl fixed gear fisheries on days when the commercial halibut fishery is open. Mr. Moore agreed that is the intent of his motion.

Mr. Lockhart asked for clarification on the depth-based closures for the non-tribal whiting fishery. He asked if NMFS would have the flexibility to decide which management line would apply to which sector on a case-by-case basis and Mr. Moore agreed the intent of his motion was based on the GMT analysis which indicated such flexibility would be needed.

Mr. Anderson asked if the seaward non-trawl RCA line north of Cascade Head would remain at 100 fm under this motion and Mr. Moore said he is assuming that was the GMT recommendation. Mr. DeVore confirmed that was the recommendation.

Mr. Myer explained for the record that he will recuse himself on this issue since he is an employee of an at-sea whiting company, but he would like to comment on the motion. He explained that he is in full support of the full retention and electronic monitoring requirements for catcher vessels delivering to motherships. Mr. Myer said the sector-specific bycatch limit analysis and discussion in the GMT report was well done and true. He hopes there would be future consideration for a different distribution of sector-specific bycatch limits if that is needed. He believes these steps are necessary for trawl rationalization. Mr. Moore agreed the pro-rata distribution of bycatch limits may not provide the best apportionment to the non-tribal whiting sectors, but at this point, industry representatives agree on this distribution. He is hoping the Council will develop a better apportionment methodology at a later date.

Mr. Williams asked if the 0.6 mt yelloweye catch share would be applied in total for limited entry whiting and non-whiting trawl sectors and Mr. Moore said yes.

Mr. Anderson asked Mr. Jones about the issue of the non-trawl RCA boundary adjustment for the area between Cape Blanco and Cascade Head. He asked whether the GMT discussed an alternative whereby vessels could fish to the 100 fm line if they declared they would participate in the directed halibut fishery and Mr. Jones said the GMT had those discussions with enforcement. The resulting GMT recommendation to restrict all fixed gear vessels to fish seaward of 125 fm except on days when the commercial halibut fishery was open was made to reduce complexity. There were some enforcement concerns with a declaration process that would allow some vessels in the fleet targeting halibut to fish at different depths than those vessels targeting groundfish.

Ms. Vojkovich asked about the alternative 2 yelloweye catch sharing plan that allocates 0.6 mt for all limited entry trawl sectors. What happens if there is a 400,000 mt whiting OY in the future and the whiting fleets need to accommodate some yelloweye bycatch? She would like to reconsider catch sharing if that happens. Mr. Moore said the whiting fishery has caught a minimal trace of yelloweye in the past and, although a 400,000 mt whiting OY is unlikely, we can deal with it then.

Mr. Lockhart said there would be 100% monitoring of all whiting harvesters with this motion, but not 100% monitoring of plants. Sector-specific bycatch limits require more precision of plant monitoring and wondered if 100% plant monitoring or daylight landing can be considered. Mr. Moore said the plants have been providing monitoring since day 1. Restricting landing times is logistically bad for harvesters given weather and other events. He assumes that final Amendment 10 regulations will address this issue.

Mr. Wolford asked if any of the GMT recommendations were excluded and Mr. Moore said GMT recommendations 4-6 were not included.

Mr. Anderson thought, with sector-specific bycatch limits and 100% electronic monitoring of shoreside vessels, we will need 100% compliance monitoring at plants receiving whiting. We need observers there when product is off-loaded. We need to be certain about bycatch accounting in the shoreside sector. Mr. Moore agreed, that it seems logical to have a compliance monitor available when whiting are off-loaded. Mr. Lockhart asked if the Council cared whether such regulations would go forward under Amendment 10 rulemaking or biennial specifications rulemaking.

Mr. Anderson moved and Mr. Cedergreen seconded a motion to amend Motion 50 (Amendment 1) to allow NMFS the flexibility to insure compliance monitors are at the plants when whiting offloads are occurring either through the biennial specifications rulemaking process or through Amendment 10 rulemaking. Mr. Myer asked if he could vote on the amendment and Ms. Cooney said yes.

Amendment 1 to Motion 50 carried unanimously.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion to amend Motion 50 (Amendment 2) to restrict the open access nearshore fishery from 40°10' N latitude to the California-Oregon border at 42° N latitude to depths shallower than 20 fm year round.

Amendment 2 to Motion 50 carried unanimously.

Mr. Steve Williams moved and Mr. Sones seconded a motion to amend Motion 50 (Amendment 3) to restrict the open access nearshore fishery from the California-Oregon border at 42° N latitude to Cape Blanco at 43° N latitude to depths shallower than 20 fm year round.

Amendment 3 to Motion 50 carried unanimously.

Mr. Anderson moved and Ms. Fosmark seconded a motion to amend Motion 50 (Amendment 4) to allow salmon trollers to retain lingcod north of the Columbia River at a rate of 1 lingcod per 15 Chinook plus 1 lingcod and with a trip limit of 10 lingcod. Mr. Moore asked why there is no motion for Oregon waters and Mr. Anderson explained Oregon fishermen have open access opportunity that Washington fishermen do not. The concern over canary bycatch is lessened with a higher canary OY. Mr. Moore asked if existing VMS rules would apply in this and Mr. Anderson said yes.

Mr. Steve Williams moved and Mr. Warrens seconded a motion to amend Amendment #4 to Motion 50 (Amendment 5) to include the same lingcod retention provision for Oregon salmon trollers.

Amendment 5 carried unanimously as amended.

Ms. Fosmark moved and Mr. Wolford seconded a motion to amend Amendment #5 to Motion 50 (Amendment 6) to include the same lingcod retention provision for California salmon trollers.

Amendment 6 carried (Ms. Vojkovich voted no).

Ms. Vojkovich asked if the decision to allow lingcod retention in the California salmon troll fishery could go forward without analysis and Mr. Lockhart said NMFS would have to do the analysis if it has not been done. Mr. DeVore confirmed the GMT did not do the analysis for the California salmon troll fleet.

Mr. Steve Williams moved and Mr. Warrens seconded an amendment to Motion 50 (Amendment 7) to maintain the shoreward non-trawl RCA boundary at 30 fm north of Cape Blanco at 43° N latitude to the Oregon-Washington border.

Amendment 7 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded an amendment to Motion 50 (Amendment 8) to modify the 100 fm line off Washington as described in Agenda Item F.9.b, Supplemental WDFW Report to conserve yelloweye. Mr. Anderson said the area that would be closed with this line modification is one known to contain yelloweye.

Amendment 8 carried unanimously.

Mr. DeVore asked if mandatory fixed gear logbooks would be state or federal. Ms. Vojkovich said California couldn't do state logbooks. Mr. Moore said they would be federal.

Ms. Vojkovich asked if canary sharing was in the motion and Mr. Moore said no.

Mr. Steve Williams tasked the GMT with designing the new federal logbook.

Mr. Anderson moved and Ms. Vojkovich seconded a motion to amend Motion 50 (Amendment 9) to use the initial 2005 scorecard catch shares for the remaining overfished species. Ms. Vojkovich asked if canary could be apportioned to sectors that need it.

Amendment 9 carried unanimously.

Motion 50 carried as amended (Mr. Myer recused himself from the vote).

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 51) to adopt the Washington recreational management measures shown in Agenda Item F.9.c, Supplemental WDFW Report 2.

Motion 51 carried unanimously.

Mr. Steve Williams moved and Mr. Warrens seconded a motion (Motion 52) to adopt the Oregon recreational management measures shown in Agenda Item F.9.c, Supplemental ODFW Report.

Motion 52 carried unanimously.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 53) to adopt the management measures described in Agenda Item F.9.b, Supplemental CDFG Report, with the addition of the incorporation of YRCAs detailed in Agenda Item F.4.b, CDFG Report 2 and pages 91-93 in Agenda Item F.4.a, Attachment 1 to be used for inseason management if needed.

Motion 53 carried unanimously.

Mr. Anderson asked if the supplemental economic analysis of the 2009-10 groundfish management measures (Agenda Item F.9.a, Supplemental Economic Analysis) is automatically included in the record and Mr. DeVore said yes.

Mr. DeVore asked if the tentative adoption of OYs under Agenda Item F.4 will carry forward.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 54) to adopt the harvest specifications (ABCs and OYs), and any of the management measures tentatively adopted under Agenda Item F.4, such as non-retention of bronzespotted rockfish, that were not changed by actions under this agenda item.

Motion 54 carried. Mr. Myer recused himself from the vote.

G. Coastal Pelagic Species Management

G.1 Pacific Mackerel Management for 2008-2009 (06/09/08; 12:34 pm)

G.1.a Agenda Item Overview

Mr. Mike Burner provided the agenda item overview.

G.1.b NMFS Report

Dr. Emmanis Dorval provided a PowerPoint presentation, available on the Council's website at: http://www.pccouncil.org/bb/2008/0608/G1b_SUP_PPT_0608.pdf

G.1.c Reports and Comments of Advisory Bodies

Dr. Steve Ralston provided Agenda Item G.1.c, Supplemental SSC Report. Dr. Sam Herrick provided Agenda Item G.1.c, CPSMT Report. Messrs. Mike Oknowieski and John Royal provided Agenda Item G.1.c, CPSAS Report.

G.1.d Public Comment

Mr. Santi Roberts, Oceana, Portland, OR

Ms. Julie Sherman, The Marine Fish Conservation Network, Portland, OR

G.1.e Council Action: Approve Stock Assessment, Harvest Guideline, and Management Measures

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 8) to accept the stock assessment for Pacific mackerel as shown in Agenda Item G.1.a, Attachment 1 and adopt a Pacific mackerel ABC harvest guideline of 51,772 mt and a directed fishery harvest guideline of 40,000 mt for the 2008-2009 season thus providing a 11,172 mt set aside for incidental landings in other fisheries. The motion included provisions in Agenda Item G.1.c, CPSAS Report, regarding the incidental fishery. In the event the directed fishery reaches 40,000 mt, request that NMFS close the directed fishery and revert to an incidental-catch-only fishery. Under this incidental-catch-only fishery, implement a 45% 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. The Council will schedule an in-season review of the 2008-2009 Pacific mackerel fishery at the nearest feasible Council meeting, if needed, with the possibility of either releasing a portion of the incidental set-aside to the directed fishery or further constraining incidental landings to ensure total harvest remains below the ABC.

Motion 8 passed unanimously.

H. Habitat

H.1 Current Habitat Issues

H.1.a Agenda Item Overview (06/10/08; 4 pm)

Ms. Jennifer Gilden provided the agenda item overview.

H.1.b Report of the Habitat Committee

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

H.1.c Reports and Comments of Advisory Bodies

None.

H.1.d Public Comment

None.

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

Ms. Vojkovich pointed out that California's comments on wave energy were contained in Agenda Item H.1., Supplemental CDFG Report. She asked if ODFW and WDFW wanted to receive such comment letters in the future, either personally or through the Habitat Committee. Both Mr. Williams and Mr. Anderson said they would like to receive that information.

Mr. Williams moved to adopt the draft letter as shown in Agenda Item H.1.a, Supplemental REVISION 2 of Attachment 1, with the inclusion of the information identified by Mr. Wolford. Mr. Warrens seconded the motion (Motion 24).

Regarding the wave energy letter, Mr. Sones noted that the *Federal Register* reference on page 2 should be filled in; the letter should identify where that confidentiality item came from.

Motion 24 passed unanimously.

Mr. Helvey asked, on the Queets Chinook issue, are there other basins that should be included in the review? Mr. Ellis said the salmon FMP mandates such a review for stocks that don't meet their escapement goals for three years in a row.

Mr. Helvey asked if this was similar to what the STT did for the Klamath. Mr. Ellis said the STT was directed in March to deal with the harvest aspects of this report; but part of this is meant to clarify habitat concerns. Mr. Ellis wanted to know if the HC should continue to pursue this.

Mr. Anderson expressed some confusion with the process. Dr. McIsaac said these stocks were exempt from the rigorous fishery management review called for in the Klamath case. He recalled that in March, Mr. Sones moved that a report be written. Mr. Sones said the tribes had asked for this information. He said he would talk with the tribes to find out their intent. Meanwhile, the report would be deferred. Mr. Sones said he thought this might be more of a Pacific Salmon Commission concern. [This issue was clarified and resolved under "Future Agenda Planning," see section C.1.d of these minutes.]

I. Marine Protected Areas

I.1 Review of Rationale for Marine Protected Areas in the Monterey Bay National Marine Sanctuary (MBNMS)

I.1.a Agenda Item Overview (06/12/08; 4:23 pm)

Mr. Burner provided the agenda item overview.

I.1.b MBNMS Report

Dr. Lisa Wooninck, Regional Resource Protection Specialist, MBNMS, provided the following MBNMS Report verbally.

“Good afternoon Chairman Hansen and Council Members. I am Lisa Wooninck, Regional Resource Protection Specialist for the Monterey Bay National Marine Sanctuary. Thank you for the opportunity to speak with you today about the Monterey Bay National Marine Sanctuary and the Decision Rationale in support of the Sanctuary’s decision regarding marine protected areas.

As the Decision Rationale states, the overarching goals for MPAs in federal waters of the MBNMS are to protect biodiversity and protect components of the ecosystem within the Sanctuary using ecosystem-based management approaches. The specific ecosystem objectives are:

- 1) Preservation of unique and rare areas in their natural state for the benefit of future generations;*
- 2) Preservation of areas where natural ecosystem components are maintained and/or restored;*
- 3) Designation of research areas to differentiate between natural variation versus human impact to ecological processes and components.*

MPAs are an effective tool for obtaining these objectives, under the overarching goal of ecosystem conservation and management.

The rationale for the decision to consider MPAs in federal waters is based in: 1) provisions and responsibilities articulated in the National Marine Sanctuary Act that are focused on ecosystem based management and protection, 2) scientific research and theory that are focused on ecosystem based management principles, such as the precautionary approach, and 3) strong public support for areas of higher ecosystem protection within MBNMS boundaries.

The MBNMS worked with NOAA Fisheries partners in drafting the decision rationale. This effort emphasized yet again how by collaboration and coordination we complement each other’s authorities under fishery management and ecosystem management. It is this spirit of coordination and respect for our complementary authorities that we wish to continue today and into the future.

The rationale and proposed goals for MPAs in federal waters are ecosystem based and focused on protecting and managing components of the ecosystem. The rationale and goals for MPAs are not fishery management based or focused on maintaining or obtaining fishery objectives such as sustainable yield or rebuilding of fish stocks. These goals are under the purview of the PFMC or CDFG. Although MPAs for the MBNMS are a tool for ecosystem management not fishery management, we acknowledge that any proposed MPA will likely have an effect on fishing activity and fishery management, inside and outside the boundaries of any proposed MPAs. This is why we are here requesting your input on the best process to move forward with this issue. As is stated in our MPA action plan developed by the stakeholder MBNMS MPA working group that has worked on this issue for the past 5 years, the MBNMS, will to the extent practicable, seek to minimize the effect any proposed MPAs may have on fishing, the fishing community, and fishery management. The MBNMS values the vibrant history and contributions the fishing community brings to the Sanctuary and it is not the intent of the MBNMS to negatively impact this community as the MBNMS pursues fulfilling its ecosystem mandate using a prominent ecosystem tool.

Superintendent Paul Michel at the April PFMC meeting provided context and background on how the MBNMS for the past 15 years has consistently used open, transparent, science-based, and stakeholder driven processes, to pursue activities in support of the ecosystem goals of the National Marine Sanctuaries Act. When those activities affected fishing we have respected the distinct role and authority that state and federal fishery managers have. We have consistently followed the protocols, as evidenced by our successful coordination with you on Krill Harvesting and Davidson Seamount protection. In the past the Sanctuary has brought to you or the California Department of Fish and Game all proposed actions that may have affected fishing, and we all agreed action was needed for those proposals. The MBNMS continues to follow this protocol by communicating and working with the PFMC and its advisory bodies on the proposed action of MPAs in federal waters of the MBNMS

When protecting the health of the ecosystem directly or indirectly affects fishing, the Sanctuary has followed the proscribed process for coordination with fishery managers. The process is described in the 1992 Final Environmental Impact Statement for the Monterey Bay Sanctuary. Basically the FEIS says that NOAA will consult with the PFMC and industry to determine the appropriate course of action and the PFMC would be given the opportunity to draft regulations with NOAA Fisheries under APA (Administrative Procedures Act) and NEPA (National Environmental Policy Act) requirements.

The MBNMS decision is a statement that MPAs are a tool for ecosystem management and conservation that needs to be employed in the Sanctuary. We did not say that they will be put into place by us. We know that the details of where, who, when, how, etc. are yet to be determined and a careful and public analysis of the alternatives will be evaluated. We are teeing up a process to evaluate existing management measure and evaluate the opportunity to use or modify existing MPAs, or create new MPAs.

We come to you now, before the process has even begun, to seek your input on how best to implement a process that weaves PFMC standards, protocols, issues, and time lines into our MPA evaluative process. At the last meeting the PFMC and its advisory bodies provided instructive comments on our draft concepts and time line for an MPA process that have already been incorporated. These include the following:

- 1) Incorporate SSC members as science experts on the MBNMS MPA science panel to assist with developing scientific criteria and thresholds important to fishery science and management. The SSC members would serve as science experts and not as official representatives of the PFMC. The MBNMS would seek PFMC advice and recommendations on MPA products developed by any future science panel and working group by submitting these materials to the PFMC for separate and formal review.*
- 2) Include as part of a detailed evaluation of MPA alternatives a thorough characterization of existing protective measures as the status quo alternative and include the Davidson Seamount as part of the Sanctuary in the alternatives.*

In looking at the upcoming work of the PFMC and our own work, there appears to be great opportunity to work together on many issues. Perhaps, there are opportunities to collaboratively do special things in special places like the Sanctuary.

To conclude, the Monterey Bay National Marine Sanctuary values its relationship with the PFMC and the fishing community. We acknowledge that the uncertainty and concern, particularly from the fishing community, about how any proposed MPAs will affect fishing is real. The misinformation about how MPAs will be implemented is something we need to combat using effective communication at meetings such as the one today. It is our hope that effective and strong collaboration and coordination with our fishery management partners in a process to evaluate MPAs for Sanctuary ecosystem goals will help relieve the level of uncertainty and misinformation that is out there. We, the MBNMS, NOAA Fisheries and the PFMC, owe it to our constituents to coordinate an open, clear, transparent, and stakeholder driven process for MPAs in federal waters of the MBNMS.”

Ms. Fosmark and Mr. Moore asked for clarification on the Sanctuary’s collaboration with the Council. Dr. Wooninck clarified that the Sanctuary is going forward with the consideration of additional MPAs in the Sanctuary and is planning to closely coordinate the evaluation process with the Council.

Dr. McIsaac noted the Council is interested in the specific criteria the Sanctuary is proposing for use in evaluating potential MPAs as well as the rationale for those criteria. The Sanctuary letter dated April 15, 2008 (Agenda Item I.1.b, Attachment 2) combined with today’s verbal report do not provide the type of detailed criteria the Council commonly uses in decision making. Dr. Wooninck said the specific criteria for evaluating MPAs are something the Sanctuary plans to develop in coordination with the Council and NMFS as the process progresses.

I.1.c Reports and Comments of Advisory Bodies

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

Ms. Culver asked if the SSC reviewed the objectives and goals established in the Council’s FMPs for their potential use in developing criteria for MPAs. Dr. Ralston stated that the SSC felt the Council does a good job with the single-species type management objectives of staying within OYs and rebuilding stocks and felt that these objectives are well defined and practiced. The SSC also realizes that not all of the goals and objectives of this type of ecosystem approach have been developed or will be amenable to scientific review. Both types of objectives are important but not all are measurable (aesthetics for example may be a worthy objective, but it is not easily measured).

Ms. Fosmark asked if the public opinion report submitted under public comment (Agenda Item I.1.e, Attachment 4) was discussed by the SSC. Dr. Ralston reported that the SSC discussed the age of the report and the fact that many spatial management actions have gone into effect since the survey was conducted and if repeated today, the survey may have had different results.

Mr. Duncan MacLean provided Agenda Item I.1.b, Supplemental SAS Report. Mr. Burner read Agenda Item I.1.c, Supplemental HC Report.

I.1.d Public Comment

Mr. Steve Shimek, The Otter Project/Monterey Coastkeepers, Marina, CA

Ms. Kaitilin Gaffney, Ocean Conservancy, Santa Cruz, CA

Ms. Libby Downey, AMBAG, Monterey, CA

Ms. Aimee David, Monterey Bay Aquarium, Monterey, CA

Mr. Jim Haussener, California Marine Affairs and Navigation Conference, Castro Valley, CA

Mr. Duncan Humboldt Bay Fisherman’s Marketing Association, El Granada, CA

Mr. Jesse Woltjer, Save Our Shores, Santa Cruz, CA
Mr. Steve Scheiblauber, City of Monterey, Monterey, CA
Mr. Ken Stagnaro, Stagnaro Charter Boats, Santa Cruz, CA
Mr. John Holloway, Recreational Fishing Alliance, Portland, OR

I.1.e Council Action: Adopt Recommendations to the MBNMS

Ms. Vojkovich referenced Informational Report 5: State Marine Protected Areas Along North Central Coast of California to be Considered by the California Fish and Game Commission and noted that California is in the process of implementing MPAs in each of five coast regions throughout the state. The CFGC has adopted 29 MPAs, 21 of which are within Sanctuary boundaries. She felt that a logical place to start with the consideration of Federal MPAs is with a review of MPAs in state waters within the Sanctuary.

Dr. McIsaac asked if there were specific criteria used by California when implementing MPAs that could be forwarded to the MBNMS as suggested criteria. Ms. Vojkovich said there was a structured process that she could forward to the Council staff.

Mr. Moore asked Ms. Vojkovich if the state marine reserves in California are protecting habitat types which extend out into Federal waters as was the case in the Channel Islands. Ms. Vojkovich assumed so, but she noted that the focus under the MLPA was an ecosystem approach of creating a network of MPAs to protect nearshore rocky reef habitat and some representation of different types of habitat found in nearshore areas.

Mr. Moore moved (Motion 44) to have the Council forward to MBNMS staff the recommendations from the SSC as shown in Agenda Item I.1.c, Supplemental SSC Report. Mr. Warrens seconded the motion.

Mr. Wolford moved to amend the motion to include the recommendations in the HC Report (Agenda Item I.1.c, Supplemental Habitat Report). Chairman Hansen seconded the amendment to Motion 44.

Ms. Culver reviewed the changes to the process flowchart and summaries presented by the Sanctuary and noted that Council recommendations from April had been addresses. The final analysis and NEPA documentation is now scheduled for the fall of 2009 rather than the summer and coordination with the PFMC is appropriately documented.

Ms. Vojkovich, asked for clarification on how the Council and the Sanctuary will coordinate on the development of the preliminary documents and analyses between now and the fall of 2009. Ms. Wooninck stated that the timeline is in a draft form and that the Sanctuary is interested in Council suggestions on the best way to collaborate.

Amendment to motion 44 passed unanimously.

Motion 44 passed unanimously as amended.

Ms. Vojkovich asked if it would be better for the Council to review preliminary documents in advance of the September 2009 Council meeting. Mr. Burner stated that, as recommended by the SSC, Council staff will act as a liaison with the Sanctuary with the understanding that a progress update and preliminary document would come before the Council in advance of September 2009. Mr. Moore asked Chairman and Dr. McIsaac if Council staff resources are available for such a role. Dr. McIsaac stated the Council staff could fulfill the role and will track progress.

ADJOURN

The 194th Council meeting was adjourned at 1:20 pm on Friday, June 13, 2008.



Council Chairman

September 12, 2008

Date

PFMC
10/06/2008 10:50:13 AM