

**MINUTES**  
**204<sup>th</sup> Session of the**  
**Pacific Fishery Management Council**  
**June 12-17, 2010**  
 Crowne Plaza Hotel  
 1221 Chess Drive, Foster City, California

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## **A. Call to Order**

### **A.1 Opening Remarks**

Mr. Dave Ortmann, Chair, called the 204<sup>th</sup> meeting of the Pacific Fishery Management Council (Council) to order on Saturday, June 12, 2010 at 10:45 a.m. Prior to the beginning of the open session, a closed session was held from 8 a.m. to 10:40 a.m. to discuss litigation and personnel matters.

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

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

Mr. William L. "Buzz" Brizendine (At-Large)  
Mr. Mark Cedergreen, Vice Chairman (Washington Obligatory)  
Mr. Brian Corrigan (US Coast Guard, non-voting, designee)  
Ms. Michele Culver (Washington State Official, designee)  
Mr. David Crabbe (California Obligatory)  
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region, designee)  
Ms. Dorothy Lowman (Oregon Obligatory)  
Mr. Jerry Mallet (State of Idaho Official, designee)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At- Large)  
Mr. Dave Ortmann, 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, designee)  
Mr. Gordon Williams (State of Alaska Official, non-voting, designee)  
Mr. Steve Williams (State of Oregon Official, designee)  
Mr. Dan Wolford, Vice Chairman (At-Large)

The following Council members and/or designees were present for portions of the meeting:

Mr. Phil Anderson (Washington State Official), present from 06/12 through 06/17.  
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting), present from 06/13 through 06/17.  
Mr. Mark Helvey (National Marine Fisheries Service, Southwest Region, designee), present 06/12 through 06/17.

The following Council members and/or designees were absent for the entire meeting:

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

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

Dr. Donald McIsaac; spoke about the four attachments to this agenda item and the one informational report in the briefing book. With regard to Attachment 3, Review of NOAA Fisheries Enforcement Programs and Operations, he noted that the Enforcement Consultants (EC) would provide a response later in the week for Council consideration.

Dr. McIsaac also expressed appreciation for Council Chair, Mr. Dave Ortmann, who is ending his third Council member term with this meeting.

On Thursday, June 17, at 8:09 a.m. Deputy Chief Cenci provided Agenda Item A.3, Supplemental Enforcement Report. Chairman Ortmann opened the floor to comments and questions. He and others expressed the Council's appreciation to our enforcement personnel and noted how important enforcement is to the fishery operations. Mr. Moore recommended that the Council have the Executive Director forward the EC's report to the appropriate personnel in National Oceanic and Atmospheric Administration (NOAA) as a reflection of what our Council does and how it deals with enforcement issues. He felt it was unfortunate that they did not include the west coast enforcement operations in their review and much of what was criticized in the report applied mainly to areas under the authority of other regional councils. In response to a question, Deputy Chief Cenci said a letter might be more constructive and more likely to be read. The Council concurred that the Executive Director send a letter.

#### **A.4 Agenda**

Dr. McIsaac asked Mr. Lockhart to speak to the current status of the Magnuson-Stevens Act (MSA) approval process for Groundfish Amendments 20 and 21 (Agenda Item B.6) and to the question of what was appropriate public comment and Council action on Agenda Item B.6 with regard to the intent and notice provided in the Council agenda. (10:58 a.m.)

Mr. Lockhart reviewed the timing of the approval process and noted that on August 10 the Secretary of Commerce must make a decision to approve, partially approve, or disapprove the trawl rationalization program as submitted in Amendment 20. He and Ms. Eileen Cooney clarified that this agenda item is for deeming the regulations implementing Amendments 20 and 21 and that the appropriate comments and action for this agenda item would be in regard to the implementing regulations, not with regard to approval, disapproval, or delay of the amendments.

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

Mr. Rod Moore moved and Mr. Mark Cedergreen seconded a motion (Motion 1) to approve the meeting agenda as shown in Agenda Item A.4, June Council Meeting Agenda.

### **B. Groundfish Management**

#### **B.1 National Marine Fisheries Service Report (06/12/2010; 11:20 a.m.)**

##### **B.1.a Regulatory Activities**

Mr. Frank Lockhart introduced new staff at the Northwest Region, Mr. Sean Matson. Mr. Matson will be nominated to serve on the Groundfish Management Team. He spoke about Pacific whiting issues including the upcoming treaty and the progress of the fishery to date.

##### **B.1.b Fisheries Science Center Activities**

Dr. Jim Hastie provided an update on Northwest Fisheries Science Center activities.

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

None.

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

Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA  
Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA

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

Ms. Culver asked Mr. Lockhart questions regarding upcoming meetings on the treaty tribal whiting rights. Mr. Lockhart said he intends to work with the states. National Marine Fisheries Service (NMFS) is planning on three separate meetings and at least one of those meetings would be a joint meeting with the states.

### **B.2 Fishery Management Plan Amendment 23, Annual Catch Limits and Accountability Measures (06/13/10; 2:18 p.m.)**

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

Mr. John DeVore provided the agenda item overview.

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

Mr. Frank Lockhart summarized Agenda Item B.2.b, Supplemental NMFS Report. Dr. Martin Dorn provided Agenda Item B.2.b, Supplemental SSC Report. Dr. Jason Cope provided Agenda Item B.2.b, Supplemental GMT Report.

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

Dr. Geoff Shester, Oceana, Monterey, CA  
Mr. Whit Sheard, Oceana, Monterey, CA  
Ms. Laura Pagano, NRDC, San Francisco, CA  
Mr. Jeff Russell, NRDC, San Francisco, CA  
Ms. Dayna Wolf, Ocean Conservancy, San Francisco, CA

#### **B.2.d Council Action: Adopt Final Amendment (06/13/10; 4:41 p.m.)**

Mr. Anderson moved and Mr. Myer seconded Motion 8 to:

Adopt Amendment 23 to the Pacific Coast Groundfish Management Plan, as presented in Agenda Item B.2.a, Attachment 2, June 2010 with the following modifications:

- 1) Adopt the Scientific and Statistical Committee (SSC) recommendations contained in Agenda Item B.2.b, Supplemental SSC Report, June 2010.
- 2) Adopt Groundfish Management Team (GMT) recommendations 1, 2, and 5 contained in Agenda Item B.2.b, Supplemental GMT Report, June 2010.
- 3) Under the description of factors to be considered in the determination of annual catch limits (ACLs), the Council will add the consideration of ecological factors.

Council staff is directed to revise the Preliminary Draft Environmental Assessment (Agenda Item B.2.a., Attachment 1, June 2010) consistent with the provisions of this motion and other clarifications as necessary.

Mr. Anderson explained Amendment 23 is a work in progress, but it provides an important and improved process for deciding harvest specifications. There is a clearer pathway for accommodating scientific uncertainty in deciding acceptable biological catch (ABC) and new tools that will help prevent overfishing. The SSC's report had some explicit recommendations. The GMT's recommendations (1, 2, and 5) are important elements of this action. However, GMT recommendations 3 and 4 should be considered but could reduce flexibility if the annual catch target (ACT) is included in the FMP only as an accountability measure and not a harvest guideline.

Ms. Vojkovich asked Mr. Lockhart if the GMT recommendation to affirm the option 2, 40-10 rule (recommendation 2) could be interpreted that option 1 is contrary to National Standard 1 (NS1) guidelines because ACLs could be set higher than overfishing limits (OFLs). Mr. Lockhart said that NMFS could not approve an ACL that is higher than an OFL.

Mr. Anderson explained that the option 1, 40-10 rule troubled him in that it may not rebuild stocks in the precautionary zone as quickly as he would like. Mr. Moore said that he has championed an option 1 control rule because he believes the option 2 rule is more precautionary than he believes is needed. However, he will not oppose this motion on this basis.

Mr. Lockhart asked for clarification that the motion reaffirms the option 2, 40-10 rule and Mr. Anderson said that was correct.

Mr. Wolford had trouble with the SSC's first recommendation that the SSC will use a probability of overfishing (P\*) approach. He asked Mr. DeVore how that is characterized in the draft FMP language and Mr. DeVore answered that a P\* approach is one of many possible approaches for accommodating scientific uncertainty contemplated in the FMP. Mr. DeVore said there should be clarification in the motion regarding whether a P\* approach is to be an exclusive one.

Mr. Lockhart moved and Ms. Lowman seconded an amendment to Motion 8 (Amendment 1 to Motion 8) to add the following language to the FMP to improve its clarity:

1) In Section 4.4.1 (Attachment 2) add:

"Approaches to quantifying the variability on biomass estimates include using the standard error about the estimated biomass of a stock in the most recently approved assessment and estimating the between-assessment variance in biomass estimates for a stock with multiple assessments or for all category 1 stocks with multiple assessments in a meta-analysis. A proxy variance (sigma) can be calculated using this latter approach for all or some category 1 species. These approaches are not exclusive and the SSC may recommend additional approaches to quantifying scientific uncertainty for category 1 species, including approaches that are specific to individual stocks. Once scientific uncertainty is quantified, it is mapped to an estimated probability of overfishing (P\*). The Council chooses the ABC from the SSC-recommended range based on its choice of P\*, which is a risk-assessment policy decision."

2) Insert as options for use by the Council into both Section 4.4.2 and 4.4.3

a) Continue to apply a buffer of 0.25 for category 2 stocks and of 0.5 for category 3 stocks for consistency with current practice until the SSC has developed and applied an appropriate analytical framework.

b) Set the value of sigma for category 2 and 3 stocks to two and four times the coefficient of variation (CV) for category 1 stocks. These specific values are not based on a formal analysis of assessment outcomes and could change substantially when the SSC reviews additional analyses.

3) In Section 4.4 replace the statement:

"The ABC is decided by the Council based on its preferred level of risk aversion."

With

"The ABC is adopted by the Council based on its preferred level of risk aversion in combination with the recommendations of the SSC regarding scientific uncertainty."

4) Direct the staff to work with the SSC to develop language for insertion into the FMP that states that other sources of uncertainty may be included in the determination of the ABC where the SSC can recommend an approach to analyze those sources of uncertainty.

5) For Section 6.2.1 of the Pacific Coast Groundfish FMP (page 69):

After the sentence—

"The current list of routine management measures is published in Federal regulations at 50 CFR 660.370."

Add--

"Routine management measures have been developed to deal with management uncertainty in the groundfish fishery. The process allows timely adjustment of measures inseason to respond to the most current scientific and management information. These routine management measures are accountability measures under the Magnuson-Stevens Act as amended."

6) Add a statement to the existing description of stock complexes that states that current stock complexes will be used until Council advisory bodies can complete their analysis and provide recommendations regarding reconfiguration of those complexes according to the factors discussed in the NS1 guidelines.

7) At the end of Section 4.1 (Attachment 2) insert:

"The ACLs are established to achieve OY in the fishery. The long-term OY for a stock or stock complex is the average of the stock's or stock complex's ACLs."

NMFS will work with Council staff to edit the amendment language to conform to the motions.

The Council briefly discussed the amendment and learned that the Council's April actions in determining preliminary preferred harvest specifications for the 2011-12 fishery were consistent with this amendment and that approaches for determining scientific uncertainty buffers can be flexibly considered and applied.

Amendment 1 to Motion 8 carried unanimously.

Ms. Vojkovich explained there is no compelling need to keep the term harvest guideline (HG) in the FMP since the state of California always pursues a regulatory action consistent with Council action and there is no need to keep the HG term in the FMP based on California regulations.

Mr. Crabbe asked if the motion means the SSC would be approving the ABC and Mr. Anderson said he interprets the SSC recommendation to be that the SSC is going to determine the sigma value (estimated biomass variance). The P\* values would be determined by the Council and the combination of sigma and P\* defines the size of the scientific uncertainty buffer and hence the ABC. The SSC would review these decisions and provide us their recommendations on an ABC. The SSC would give us their opinion if it would cover scientific uncertainty and, coupled with that, our determination of risk associated with management measures for overfishing.

Mr. Crabbe moved and Ms. Vojkovich seconded an amendment to the main motion (Amendment 2 to Motion 8) to strike the last sentence, "SSC would provide final endorsement of all ABCs" from the SSC report.

Mr. Anderson asked Ms. Sheila Lynch, NOAA General Counsel (GC), how the NS1 guidelines describe the SSC's role in recommending ABCs to the Council. Ms. Lynch said the NS1 guidelines state the SSC must recommend ABCs to the Council. Mr. Crabbe asked if recommend and endorse mean the same thing. Ms. Cooney said the statute says the SSC recommends the ABCs and the Council cannot set harvest levels above it. The SSC quantifies the scientific uncertainty and the Council decides the level of risk aversion to determine an ABC. The SSC reviews the final ABCs to ensure the math was done correctly and the ABC is correctly specified.

Mr. Lockhart asked Mr. Crabbe about the concern since he was unclear as to why he is making the amendment. Mr. Crabbe thought the Council was in the position to set P\* and the SSC determines the appropriate sigma value. The way the motion is worded, it sounds like the SSC can determine the ABC value. He wanted clarity that the Council would be setting P\* and the SSC would set sigma.

Mr. Myer moved and Mr. Anderson seconded a substitute amendment to the main motion (Amendment 3 to Motion 8) to change the word "endorsement" to "recommendation" in the last sentence of the SSC Report.

Amendment 3 to Motion 8 carried. Mr. Williams and Mr. Mallet voted no. Main Motion 8 as amended carried unanimously.

Mr. Lockhart said NMFS would volunteer to work with Council staff on developing language to characterize how considerations for ecological factors in setting harvest specifications are incorporated in the FMP. The Council concurred.

### **B.3 Tentative Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries**

#### **B.3.a Agenda Item Overview (06/14/10; 8:01 a.m.)**

Ms. Kelly Ames and Mr. John DeVore provided the agenda item overview. A bullet list of the decision steps for Council action was provided under this agenda item. It was decided to parse the decision by independently deciding the harvest specifications for non-overfished species separately from management measures, which will be done under Agenda item B.7. Additionally, the OFLs and ABCs for overfished species will be adopted today.

**B.3.b Reports and Comments of Advisory Bodies and Management Entities (06/14/10; 9:55 a.m.)**

Dr. Martin Dorn provided Agenda Item B.3.b, Supplemental SSC Report. Mr. Rob Jones provided Agenda Item B.3.b, Supplemental GMT Report 2. He also offered to answer any questions regarding Agenda Item B.3.b, GMT Report 1. Mr. Tom Ancona provided Agenda Item B.3.b, Supplemental GAP Report. Deputy Chief Mike Cenci provided Agenda Item B.3.b, Supplemental EC Report.

**B.3.c Public Comment**

Part One

Mr. Bill James, open access fishermen, Salem, OR  
Mr. Ralph Brown, trawler, Gold Beach, OR  
Mr. Kenyon Hensel, Hensel's, Crescent City, CA  
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA  
Ms. Laura Pagano, NRDC, San Francisco, CA  
Mr. Jeff Russell, NRDC, San Francisco, CA  
Mr. Geoff Shester, Oceana, Monterey, CA  
Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA

Part Two (06/15/10; 8:12 a.m.)

Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA  
Mr. Chris Kubiak, Point Conception Groundfishermen's Association, Morro Bay, CA  
Mr. Gerry Richter, Point Conception Groundfishermen's Association, Santa Barbara, CA  
Mr. Kenyon Hensel, Hensel's, Crescent City, CA  
Mr. Daniel Platt, Fort Bragg, CA  
Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA  
Mr. Michael Deach, longliner, Bellingham, WA  
Mr. Robert Ingles, Golden Gate Fishermen's Association, Hayward, CA  
Mr. Bill James, speaking for Pt. San Luis Commercial Fishermen's Association, Salem, OR  
Mr. Tom Marking, McKinleyville, CA

**B.3.d Council Action: Tentatively Adopt Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries**

Council action on non-overfished species harvest specifications (06/14/10; 2 p.m.)

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 11) to adopt the overfishing limits (OFLs) and acceptable biological catches (ABCs) for 2011 and 2012 for all groundfish species (overfished and non-overfished), except shortbelly rockfish, as described in Table 2-1, on pages 1 and 2 of Chapter 2 (Agenda Item B.3.a, Attachment 2). For shortbelly rockfish, adopt an OFL of 6,950 mt and an ABC of 5,789 mt for 2011 and 2012, consistent with the Council's specification of a scientific uncertainty buffer for category 2 stocks (i.e., a P\* of 0.40 and a sigma value of 0.72) as described in Table 2-5, on page 15 of Chapter 2.

Mr. Anderson said the proposed motion is consistent with our preliminary preferred alternative from April. He did not have values for shortbelly at that time but there was an assessment for shortbelly in 2007. He used the status quo shortbelly ABC/optimum yield (OY) 6,950 mt to specify the 2011-2012

OFL and our new approach for deciding an ABC for category 2 stocks. The balance of the specifications are consistent with the SSC recommendations. The motion includes specifying OFL and ABCs only; ACLs will be included in a separate motion to avoid confusion.

Ms. Kirchner asked if the motion included ABCs and OFLs for the complexes and Mr. Anderson said yes.

Dr. McIsaac explained the table in the motion shows an N/A for minor nearshore rockfish. He asked if the motion includes OFLs and ABCs for those complexes and Mr. Anderson said those specifications will be determined in a subsequent motion.

Mr. Lockhart asked if the OFL and ABC levels for the complexes are the sums of the OFLs reviewed by the GMT and SSC and Mr. DeVore said yes, the complex values are the aggregated sum of OFLs determined for component stocks in the complexes.

Mr. Moore asked if the derivative ABCs come from the P\* values determined in April and Mr. DeVore said yes.

Motion 11 carried unanimously.

Ms. Vojkovich explained she had some concerns with Motion 11. Therefore, Mr. Moore moved and Mr. Anderson seconded a motion (Motion 12) to reconsider Motion 11.

Motion 12 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 13) to withdraw Motion 11.

Motion 13 carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 14) to adopt the OFLs and ABCs considered under Motion 11 with the exception that this is characterized as “tentative adoption.”

Ms. Vojkovich moved and Ms. Kirchner seconded an amendment to the motion (Amendment 1 to Motion 14) to remove any tentative adoption of OFLs and ABCs for stock complexes contained in the tables referenced in Motion 14.

Ms. Vojkovich said the intent of the amendment was to have a separate discussion of harvest specifications for stock complexes.

Amendment 1 to Motion 14 carried unanimously. Motion 14 as amended carried unanimously.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 15) to tentatively adopt the preliminary preferred 2011 and 2012 ACLs for non-overfished species as shown on Tables 2-8 and 2-9 on pages 21 and 22 in Agenda Item B.3.a, Attachment 2; except for sablefish, shortbelly rockfish, Dover sole, chilipepper rockfish, splitnose rockfish and minor rockfish north and south. For splitnose rockfish, use the preliminary preferred ACLs shown in Table 2-1 on page 2 of Attachment 2. For sablefish, adopt northern and southern 2011 ACLs of 5,515 mt and 1,298 mt, respectively, and northern and southern 2012 ACLs of 5,347 mt and 1,258 mt, respectively. For shortbelly rockfish, adopt an ACL of 50 mt for 2011 and 2012. For Dover sole, adopt an ACL of 25,000 mt for 2011 and 2012.

Mr. Anderson explained the preferred ACLs for sablefish were derived from values provided by the GMT in Table 3 on page 18 of their report and represent a 68:32 north:south apportionment using the swept area biomass estimates from the trawl survey. The GMT stated the choice of apportionment method is largely a policy call and the ACLs in the motion are consistent with the Groundfish Advisory Subpanel (GAP) recommendation. For shortbelly, the low ACL recognizes the stock's ecological importance as a forage species; a fact underscored in public comment. This ACL should accommodate the incidental bycatch of the stock, given the recent catch history. For Dover sole, the understanding is we have had landings of under 25,000 mt in recent years due to the inability to access these fish and market conditions. This is an important stock for the trawl fishery that may be more accessible under trawl rationalization. This higher ACL also provides the industry the chance to develop new markets for Dover sole. He did not include ACLs for chilipepper rockfish, minor rockfish north and south, or for the overfished species. Separate motions and discussions are needed for those decisions.

Ms. Vojkovich and Mr. Roth spoke in favor of the motion and agreed with the ecological importance of shortbelly rockfish in the California Current ecosystem.

Motion 15 carried unanimously.

Ms. Vojkovich moved and Ms. Kirchner seconded a motion (Motion 16) that the Council adopt the following OFLs, ABCs, and ACLs for the complexes and sub-complexes as identified below:

Complex	2011 & 2012 OFLs <sup>1</sup>	2011 & 2012 ABCs <sup>2</sup>	2011 & 2012 ACLs <sup>3</sup>	% of Minor Rockfish North
Minor Rockfish North	3,678	2,553	2,283	
Nearshore species	250	173	155	6.8%
Shelf Species	1,559	1,082	968	42.4%
Slope Species	1,869	1,297	1,160	50.8%

  

Complex	2011 & 2012 OFLs	2011 & 2012 ABCs <sup>1</sup>	2011 & 2012 ACLs	% of Minor Rockfish South
Minor Rockfish South	3,382	2,347	1,990	
Nearshore species	1,105	767	650	32.7%
Shelf Species	1,213	842	714	35.9%
Slope Species	1,064	738	626	31.5%

<sup>1</sup> Shading represents new OFLs which = 2010ABC (OFL) \* subcomplex%.

<sup>2</sup> Based on determining the 2010 OY (ABC) sub-complex percentages components and applying those percentages to the 2010 ABC (OFL), then applying the Council chosen P\* = 0.4 and Sigma = 1.44 for category 3 stocks (buffer of 30.6%).

<sup>3</sup> This is the same as 2010 OYs (ACLs).

Ms. Vojkovich said the rationale for taking this approach bases 2011 and 2012 on the 2010 OYs, so the ACLs column reflects what was specified in 2010 as OYs. She felt there were some process issues with using the new depletion-corrected average catch (DCAC) and depletion-based stock reduction analysis (DB-SRA) approaches for the 2011 and 2012 OFLs. She explained the scientific basis for determining these harvest specifications in the last management cycle and that a peer review of the new methods should occur before implementing them. She is not saying the methods recommended by the SSC are wrong or not the right approach; she is concerned that the review process should have been slower and more deliberate.

Ms. Kirchner said she was supportive of the motion and added that she did not know if the Council has ever accepted a stock assessment with the limited amount of review that this went through. She would like to see a workshop to better develop these new methods.

Mr. Lockhart said he appreciated the explanation and agreed the review process could have been conducted better. However, the reauthorized MSA implemented new requirements that now apply. One of those requirements is the development of the OFLs, ACLs, and potentially ACTs for all of these stocks. The choice, as we move forward, was that the SSC and GMT had to develop a series of OFLs, ABCs, and ACLs to be consistent with the reauthorized MSA and revised NS1 guidelines. They chose to develop new methodologies that they thought were more scientifically sound. While these methodologies have not gone through a formal review, they have at least been reviewed and endorsed by the SSC. These methodologies are not as complex as a full stock assessment and may not need the formal review used to evaluate new full assessments (i.e., a stock assessment review, or STAR panel). NMFS believes we have to go forward with the recommendations of the SSC as the best available science. The MSA also puts a lot more weight on SSC recommendations with respect to OFLs and ABCs, and scientific questions as well. He recognizes the process would have been different if we could have had more time to implement the new harvest specification framework and develop these new methods. Regardless, the GMT and SSC have quickly developed these methods, which were reviewed and endorsed by the SSC. If the motion is inconsistent with the SSC's recommendation of best available science, it might call into question the ability of NMFS to approve the Council recommendations. He is going to vote against the motion.

Mr. Moore appreciates Mr. Lockhart's concerns about the process, but in looking at the SSC statement, the SSC recommends that the OFLs and ABCs for complexes be set at the smallest groupings practicable. He believes this motion does that. Mr. Lockhart said the problem lies in the development of the complex OFLs and ABCs, which are the summed contributions of the individual component stocks in these complexes. The motion sets up the situation where the ABCs would be larger than the ABCs recommended by the SSC. Mr. Moore asked if, in the example of minor rockfish north, the OFL of 250 mt exceeds the individual species OFLs when those are summed, and Mr. Lockhart said yes. Ms. Lowman said she understands a lot of the points Mr. Lockhart has made and will therefore vote against the motion. She does understand and appreciate the need for review of these stocks. Ms. Vojkovich said she has an issue with how the coastwide OFLs were apportioned north and south.

Mr. Crabbe asked if the motion were to be approved by the Council and rejected by NMFS, what would be the implications. Mr. Lockhart said the Secretary of Commerce (SOC) has authority to approve/disapprove or partially approve Council recommendations. Mr. Crabbe was wondering how the disapproval process would work and Mr. Lockhart said if the Council makes a recommendation and if the SOC disapproves/partially approves, we would have to refer the issue back to the Council to make the appropriate changes. The issue is that the timing of implementation of the final specifications would require the rulemaking process be extended into late November. This could potentially put a serious burden on NMFS staff to properly implement the trawl rationalization program if it is approved on August 10. Ms. Cooney spoke about the process if something is disapproved by the agency. The issue is sent back to the Council for reconsideration. The SOC could ask for an emergency rule and NMFS would have to spend time figuring out what was done, what are the problems, and what is the appropriate response.

Mr. Wolford asked what the recommendation was that this motion would be replacing. Mr. DeVore referred to the values in Table 2-16 on page 57 in Attachment 2.

Mr. Anderson said we need to adopt OFLs consistent with those recommended by the SSC.

Motion 16 failed. Ms. Vojkovich voted yes.

Ms. Vojkovich moved and Ms. Kirchner seconded a motion (Motion 17) to tentatively adopt the OFLs and ABCs for minor rockfish north and south, as well as the nearshore, shelf, and slope subcomplexes shown in Table 1 on page 5 of Agenda Item B.3.b, GMT Report 1. The ABCs would be determined using a P\* of 0.45: Treat each stock with its “original” SSC-approved stock category and resultant sigma.

Ms. Vojkovich proposes that the Council choose a P\* of 0.45 in deciding the complex ABCs. This choice meets the NS1 guidelines, takes into consideration the needs of fishing communities in California and Oregon, and uses the recommended apportionment scheme for stratifying these complex specifications north and south of 40°10' N. latitude that the SSC used in their methodology.

Mr. Moore asked if the subcomplex OFLs considered in the motion are the sum of the individual species' OFLs and Mr. DeVore said that was correct. Mr. Moore then asked about the resultant sigma and Mr. DeVore explained those values were derived by the SSC.

Mr. Lockhart asked if the P\* value (0.45) was chosen to avoid significant negative socioeconomic impacts to affected fishing communities and Ms. Vojkovich said yes.

Mr. Moore said the Council in this instance is willing to take a slightly higher risk on overfishing because of the significant importance of these stocks to coastal communities. These are not overfished stocks and the rebuilding prescriptions in Judge Larson's order don't apply. These stocks are economically important; therefore, we are willing to take a higher risk.

Ms. Kirchner supports Ms. Vojkovich's motion since it is a good compromise and it follows the SSC's recommendations. These stocks are important in our recreational fisheries. These specifications are more conservative than status quo and take into account scientific uncertainty. She is hopeful that we will look at this again in two years and have more information.

Mr. Anderson noted that recent year catches of species in these complexes are shown in Table 4 on page 20 of Agenda Item B.3.b, Supplemental GMT Report 2. He wanted to make sure he understands the problem since it does not seem like the proposed ABCs would constrain the fishery. Ms. Kirchner said she was speaking for the northern minor nearshore rockfish subcomplex where there has been a 100 mt harvest and the proposed ABC is 99 mt.

Motion 17 carried. Mr. Anderson, Ms. Lowman, and Mr. Myer voted no. Mr. DeVore noted this is for tentative adoption and the GMT will report back later under Agenda Item B.7.

Mr. Moore moved and Mr. Crabbe seconded a motion (Motion 18) to adopt the 2011 and 2012 ACLs for chilipepper rockfish as shown in Table 2-1 on page 2 of Agenda Item B.3.a, Attachment 2.

Mr. Moore said these are the preliminary preferred ACLs and equal to the ABCs decided for chilipepper. There is interest in access to this healthy stock and the ACLs comply with NS1 guidelines and SSC recommendations.

Motion 18 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded a motion (Motion 19) to adopt 2011 and 2012 ACLs for the minor rockfish subcomplexes as shown on Table 2-16 on page 57 of Agenda Item B.3.a, Attachment 2 as follows: ACLs for northern and southern minor rockfish nearshore of 99 mt and 1,001

mt, respectively; northern and southern minor shelf rockfish of 968 mt and 714 mt, respectively; and northern and southern minor slope rockfish of 1,160 mt and 626 mt, respectively.

Motion 19 carried unanimously.

Ms. Ames outlined the Council action under part two of Agenda Item B.3. Then the Council heard the reports from the advisory body entities on the part two action. Following that, the Council took public comment (those providing public comment are listed above under part 2 public comment).

Council Action- Part Two, June 15, 2010 9:30 a.m.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 20) to tentatively confirm the preliminary preferred alternative for ACLs for 2011 and 2012 for the following overfished species: petrale sole; canary rockfish; Pacific ocean perch; widow rockfish; and yelloweye rockfish, as shown in Table 2-1 on page 1 of Chapter 2 (Agenda Item B.3.a, Attachment 2), and tentatively adopt ACLs for bocaccio, cowcod, and darkblotched rockfish that are different than those in the preliminary preferred alternative. Specifically, to tentatively adopt the following:

Species	T <sub>TARGET</sub>	Median Time to Rebuild	2011 ACL (mt)	2012 ACL (mt)	SPR
Bocaccio	2026	2022	263	274	77.7%
Canary	<b>2027</b>	2027	102	107	88.7%
Cowcod	2072	2068	3	3	82.7%
Darkblotched	2028	2025	298	296	64.9%
Pacific ocean perch <sup>1</sup>	<b>2020</b>	2020	180	183	86.4%
Widow	2015	2010	600	600	constant catch
Yelloweye <sup>2</sup>	2084	2084	20	20	72.8%
Petrale sole	T <sub>MAX</sub> = 2021	2016	976	1,160	ABC in 2011; 25:5 rule thereafter

<sup>1</sup> For Pacific ocean perch, the ACL would be set at 180 mt in 2011 and 183 mt in 2012 with an annual catch target (ACT) of 150 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 30-33 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

<sup>2</sup> For yelloweye, the ACL would be set at 20 mt with an ACT of 17 mt. The ACT would apply to total mortality from all harvest sources and the intent would be to limit harvest to stay within the ACT by adopting the appropriate management measures. The purpose of the 3 mt difference between the ACT and the ACL would be to provide a buffer for management uncertainty associated with all harvest sources, including commercial, recreational, tribal, and research catches.

Mr. Anderson noted that through this action, the median time to rebuild would replace the current T<sub>TARGET</sub> values in the rebuilding plans.

With regard to petrale, because the intersector allocations adopted through Amendment 21 are suspended when a species either becomes overfished or is rebuilt, Mr. Anderson stated he would like to request the

GMT review the non-trawl allocation of petrale of 5 percent as compared to recent harvest levels so the Council could consider whether to revise its trawl/non-trawl petrale allocation.

The intent of the motion is to provide guidance to the GMT so they can review and discuss the management measures associated with these preliminary preferred ACLs with the GAP, and provide time for the Council to review the economic and protected resources data that we have recently received. The Council would then consider final approval of the actions taken under Agenda Item B.3 on Thursday under Agenda Item B.7.

Mr. Anderson said the GMT provided a table showing the relative rate of increase in stock biomass under each of the rebuilding alternatives. He thought this table was informative and cited specific species' rebuilding trajectories to explain the tradeoffs across these alternatives. The proposed yelloweye alternative is designed to structure our fisheries to stay under the 17 mt ACT, while addressing the management uncertainty inherent in managing this stock. A yelloweye ACL of 20 mt and an ACT of 17 mt allows for research take, which is critically needed to understand rebuilding progress. Mr. Anderson noted the GMT reports that if a 20 mt yelloweye constant catch scenario were adopted, the stock would rebuild three years later than the constant spawning biomass per recruit (SPR) harvest rate scenario that results in a 13 mt ACL in 2011. The specifications can be manipulated to achieve faster rebuilding, but what we are attempting to do is rebuild in a scientifically sound and responsible way. While the SPR under the 20 mt ACL sets the target year, we are attempting to rebuild faster than that with the specification of a lower ACT. Likewise, the Pacific ocean perch (POP) specifications in the motion attempt to do the same thing by setting a lower ACT.

Mr. Lockhart asked Mr. Anderson if he believed lowering the yelloweye ACL further would have an economic impact to coastal communities. Mr. Anderson said that we have heard as much from public testimony ever since we got into rebuilding yelloweye and systematically reducing the OYs to rebuild the species; we recognize this species interacts with just about every fishery on the west coast. The 17 mt level of harvest is extremely small and there is a point at which our main west coast fisheries (e.g., salmon, halibut, and groundfish) simply collapse. In Washington, we are trying to deal with keeping our halibut fishery going due to interactions with yelloweye. The same considerations are made in Washington with the salmon fishery to reduce impacts on yelloweye. Recreational and commercial groundfish fisheries are strictly managed with depth restrictions and closed areas (yelloweye rockfish conservation areas or YRCAs) implemented to reduce yelloweye impacts. Dire socioeconomic consequences are apparent if we try to rebuild in a shorter period of time by lowering the yelloweye ACL further. Specifying an allowable harvest below 17 mt would result in many sectors of the fishing industry going out of business, leading to infrastructure collapse. We are at a critical point in terms of the amount of yelloweye needed.

Ms. Vojkovich concurred with Mr. Anderson's rationale. When we talk about overfished species and setting ACLs, we use the term "catch," but the term really should be "bycatch." Yelloweye and cowcod rebuilding strategies have resulted in significant avoidance of these species and in reality, we cannot even get data to find out how they are rebuilding. So many fisheries have been reduced to having a thin strip of coastline to fish with consequent lack of access to healthy stocks and a raised concern regarding safety at sea. The long-term impacts of the fishing restrictions from Federal and State of California actions have to be considered as a whole when we talk about the decisions made in assuring our depleted species are going to get rebuilt. She supports the motion. We cannot construct seasons that have detrimental impacts to our states unless we support the levels of bycatch allowance.

Ms. Kirchner supports the motion and agrees with the strategy of setting ACTs. Rebuilding strategies for yelloweye and canary have affected all of our fisheries. We have lost whole fishing communities due to

the constraints currently in place. She also supports having a high enough ACL to allow a research take and maintaining the scraps of fisheries that we have left.

Mr. Lockhart said he will be supporting the motion since this is preliminary action. He does need to look at the economic impacts in a more detailed manner. But for now, he is thinking this is a very good start on a motion.

Mr. Wolford noted the public testimony provided by Mr. Tom Marking. A few dollars into these communities is important not for the short-term, but for their long-term survival as well. That difference of dollars has tremendous impacts to these communities. Survival of the communities is critical at this point.

Motion 20 carried unanimously.

Mr. Anderson provided advice on proposed recreational management measures for the state of Washington by referencing Agenda Item B.3.b, WDFW Report. They held public meetings in Washington to develop and discuss groundfish proposals. The intent of the proposed alternatives provided as guidance follows:

***Coastwide (Marine Catch Areas 1-4)***

*Status quo seasons and sublimits for lingcod (two per angler per day) and rockfish (10 per angler per day) would remain in place.*

*Relative to the aggregate bottomfish limit, WDFW prefers Alternative 2, which is to reduce the bag limit to 12 bottomfish. While the current limit is 15, angler interview data indicate that 99.9% of the anglers do not retain more than 12 bottomfish.*

*Cabezon are subject to the aggregate bottomfish limit, but currently do not have a separate sublimit in coastal waters; however, there is a sublimit of two cabezon inside Puget Sound (i.e., east of the Bonilla-Tatoosh line and in Marine Catch Areas 5-13). As the status of cabezon off Washington is unknown and catches have recently increased on the coast, WDFW would prefer to place a sublimit of two cabezon per angler per day, which would promote consistency between the coast and Puget Sound.*

***North Coast (Marine Catch Areas 3 and 4)***

*WDFW prefers Alternative 2, which is: Prohibit retention of bottomfish seaward of 20 fms from June 1 through September 30 in Areas 3 and 4A, and seaward of 20 fms in Area 4B year-round, except on days halibut fishing is open; cannot fish for, retain, or possess bottomfish or halibut in YRCA.*

***South Coast (Marine Catch Area 2)***

*WDFW prefers Alternative 2, which is: Prohibit retention of bottomfish, except rockfish, seaward of 30 fms from March 15 through June 15, except sablefish and Pacific cod retention is allowed May 1 through June 15; no retention of bottomfish, except lingcod, during primary halibut season; no retention of lingcod south of 46 deg. 58' and seaward of 30 fms on Fridays and Saturdays from July 1 through August 31; and cannot fish for, retain, or possess bottomfish or halibut in South Coast YRCA and Westport Offshore YRCA.*

***Columbia Area (Marine Catch Area 1)***

*Minimal amounts (i.e., less than 0.1 mt) of yelloweye and canary rockfish are caught in Marine Catch Area 1; therefore, WDFW prefers to keep the status quo bottomfish fishing regulations in place through 2011 and 2012.*

*WDFW believes that the range of management measure alternatives presented above is sufficient to stay within the state harvest targets or guidelines for yelloweye and canary rockfish. We are committed to monitoring our catch inseason and will take action as appropriate to ensure our harvest targets or guidelines are not exceeded.*

Mr. David Sones referenced Agenda Item B.3.b, Tribal report. There was one error in the tribal report – the lingcod harvest guideline will be 250 mt in 2011 and 2012 (not 2009 and 2010). In the past, the tribes have referenced matching the limited entry trawl trip limits, but that will no longer be the case under trawl rationalization. Mr. Frank Lockhart then noted that both the Quileute and Quinault Tribes have notified NMFS that they will be entering the tribal whiting fishery in 2011.

Ms. Gway Kirchner referenced the three Oregon Department of Fish and Wildlife (ODFW) reports in the briefing book under this agenda item as guidance on proposed management measures for the state of Oregon.

Ms. Vojkovich referenced the following issues as Council guidance in shaping California recreational management measures:

The California Department of Fish and Game (CDFG) is proposing adoption of the following recreational management measures in 2011 and 2012 under all of the ACL alternatives. Details of the management measure analyses are provided in the draft version of Chapter 4 Regulatory Specifications Environmental Impact Statement (EIS) Document under Agenda Item B.3.a Attachment 1 and CDFG Supplemental Report 2 under Agenda Item B.3.b.

1. Eliminate the lingcod spawning closure in the California recreational fishery for all fishing modes, making lingcod seasons consistent with those for rockfish in each management area. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 12);
2. Change the California scorpionfish (sculpin) depth restriction in the Southern Management Area during the closed season from rockfish from 40 fm to 60 fm. (Agenda Item B.3.b CDFG Supplemental Report 2, page 14);
3. Eliminate the ten fathom depth closure around the Farallon Islands and Noonday Rock. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 18);
4. Combining the Monterey South-Central and Morro Bay-South Central recreational management areas. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 20);
5. Add a management line at Cape Vizcaino (39° 44' N. latitude). (Agenda Item B.3.b, CDFG Supplemental Report 2, page 20);
6. Increase the cabezon bag limit to 3 fish statewide. (Agenda Item B.3.b, CDFG Supplemental Report 2 under, page 20);
7. Decrease the lingcod size limit to 22 inches statewide. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 21);
8. Increase the recreational depth restriction in the Cowcod Conservation Area from 20 fm to 30. (Agenda Item B.3.a, Attachment 1, page 77);
9. Modify the list of groundfish species allowed to be taken recreationally in the Cowcod Conservation Area to include shelf and slope rockfish. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 23);
10. Modify cabezon and kelp greenling gear restrictions to be consistent with rockfish regulations (1 rod with no more than 2 hooks). (Agenda Item B.3.b, CDFG Supplemental Report 2, page 24); and
11. Revising the naming convention for the California recreational management areas. (Agenda Item B.3.b, CDFG Supplemental Report 2, page 25).

Ms. Ames displayed the highlighted items that needed to be discussed for guidance. She referred the Council to Table 1 on page 3 of Supplemental GMT Report 3 for GMT recommendations on overfished species' set-asides.

Mr. Moore noted the correct number for the petrale exempted fishing permit (EFP) set-aside should be proportionally reduced to 2 mt based on the new petrale ACLs. Most of the EFP petrale catch came from The Nature Conservancy (TNC). He talked with Mr. Michael Bell about the need for the EFP since it was designed to give us good information about co-ops and so forth in preparation for the trawl rationalization program. They discussed whether an EFP was needed once trawl rationalization was implemented, and Mr. Bell agreed it would not be needed. Therefore, Mr. Moore recommended the EFP set-aside be reduced by 4 mt to 2 mt. That would still provide 2 mt for the TNC EFP in the event there is an EFP requested. Mr. Lockhart noted that Amendments 20 and 21 are still under Secretarial review and asked Mr. Moore if he is assuming the SOC will approve these amendments. Mr. Moore said he understands that we are currently recommending set-asides based on the assumption these amendments are going to be approved. Ms. Lowman said maybe we need two options for EFP set-asides in the event the amendments are not approved. Mr. Lockhart was comfortable with Ms. Lowman's suggestion. Mr. Anderson asked if the Council is therefore recommending a 2-6 mt range for a petrale EFP set-aside. Mr. Lockhart said he is unclear of the implications of a 2 mt vs. a 6 mt set-aside and he did not want to commit to a single number. Ms. Ames said a range of overfished species' set-asides is fine since this is preliminary action.

Mr. Moore moved and Mr. Anderson seconded a motion (Motion 21) to tentatively adopt the set-asides shown in Table 1 on page 3 of Supplemental GMT Report 3, with the following changes and corrections: for petrale, set-aside 1 mt for incidental open access; adopt a petrale EFP set-aside of 2 mt; for a total petrale set-aside of 65.4 mt.

Mr. Moore explained this is a tentative adoption of set-asides that can be modified on Thursday once further results are available from the GMT. This guidance is necessary at this point since it enables further detailed analysis. He added that these set-asides were recommended by the GMT in their report.

Mr. Crabbe asked if a motion was necessary and if it would limit the range of analysis for the GMT. Ms. Ames said it would not limit the range and an adequate range will be provided in the analysis.

Motion 21 carried unanimously.

Ms. Kirchner referred to Table 5 on page 7 of Supplemental GMT Report 4 for guidance on commercial nearshore fisheries. That table shows the projected impacts/harvest guidelines for a 17 mt ACL. These impacts could be considered for the 17 mt ACT alternative. The preliminary preferred sector catch sharing alternative for yelloweye is also shown. She noted it looks like all the fisheries on this table are whole with the exception of the nearshore fixed gear fishery, which is not accommodated in the alternative. She gave the GMT guidance to re-allocate yelloweye yield to make all the fisheries in the table whole. She advised a look at the allocation between the open access sablefish daily-trip-limit harvest guideline and the nearshore fixed gear harvest guideline. She said the GMT should also look at the projected impacts for the other commercial sectors to evaluate whether there are some sectors projected to be significantly under their harvest guidelines, so each fishery is accommodated. Ms. Vojkovich asked for clarification on whether this guidance referred to just the open access fisheries or the apparent sharing over the long-term vs. the most recent catch. Ms. Kirchner said it was her understanding that in one of the specifications cycles the sharing within the open access-directed fisheries was adjusted, so she would like that looked at first. If there are other needs, look at other commercial fisheries. Ms. Vojkovich concurred.

Ms. Kirchner said we need to allocate yield within the nearshore fixed gear fishery between California and Oregon. She advised the GMT to look at Table 4-10 on page 9 of Supplemental Attachment 2 for the proportional impacts in the north using this catch data to develop yelloweye and canary sharing schemes

for nearshore fisheries in California and Oregon. Ms. Vojkovich said the percentages offered by Mr. Hensel in his public testimony should also be part of the GMT analysis.

Ms. Vojkovich asked the GMT to evaluate a single trip limit for the limited entry and open access fixed gear fisheries south of 36° N lat., as well as another option that gives a preference to the limited entry fixed gear sector while taking into account current and historical activities by each sector. She also wanted the GMT to analyze the elimination of the daily limit in the southern daily trip limit (DTL) fishery with an increase in the weekly trip limit for both fixed gear sectors.

Mr. Moore asked Mr. Lockhart and Ms. Cooney if the Pacific halibut bycatch amount for the trawl fishery can be changed in the biennial specifications process under the proposed Amendment 21 regulations. He noted the public comment expressing concern about the initial bycatch limits that were set for halibut. If the Council decides to adjust the bycatch limits, can that be done in the specifications process this week? If not, what process could be followed, assuming Amendment 21 is approved? Mr. Lockhart said the cleanest way of doing it is by a trailing action. The SOC would consider those comments in the decision-making process. Ms. Cooney did not know what the initial issuance rule said, but thought the bycatch limit could be adjusted in the biennial specifications process. She was not sure there was adequate public notice for the trailing amendment and that action would have to be appropriately noticed. Dr. Hanson said the trailing amendment would be the best way to do it; however, there has been no notice that this would be considered this week.

Ms. Kirchner noted the Rockfish Conservation Areas (RCA) corrections in waters off Oregon provided in Agenda Item B.3.a, Attachment 1 and in GMT Supplemental Report 2. She asked if analysis of a 200 fm line could be added. She also asked if we are giving the GMT flexibility to come back to us with questions if they need, and Vice Chair Cedergreen said yes.

Mr. Anderson recommended separate state recreational harvest guidelines for yelloweye be analyzed.

Ms. Vojkovich moved and Mr. Anderson seconded a motion (Motion 22) to tentatively adopt the three recommendations in the Supplemental EC Report that deal with the definition of dressed sablefish, stowage of gear, and the issue of federally-managed groundfish landed in the Exclusive Economic Zone (EEZ).

Motion 22 carried unanimously.

Ms. Lowman asked the GMT to look at separate RCA categories for hook-and-line and trap. She did not have the history of the discussions on this issue that occurred in the last cycle. She noted that our management regime is changing with implementation of Amendments 20 and 21. Trawlers might now be able to utilize more selective gears. Mr. Moore asked Ms. Lowman if she was asking for evaluation of separate RCAs for trawl vessels that are engaged in gear switching or for the fixed gear sectors as well. Ms. Lowman said she hopes that would come out of the analysis. She said hopefully the EC and GAP would be able to assist in this analysis.

Mr. Anderson said the biennial specifications process was initiated last November. He cannot support asking the GMT to do this analysis this week and consider making this decision without public notice. While this idea has merit, it should be considered at a future time. Ms. Lowman said that is a valid point and withdrew her suggestion.

## **B.4 Stock Assessment Planning for 2013-2014 Fishery Guidance**

### **B.4.a Agenda Item Overview (06/15/10; 11:28 a.m.)**

Before this agenda item, Mr. Will Stelle was introduced as the new Northwest Region (NWR) Regional Administrator. Mr. DeVore provided the agenda item overview.

**B.4.b Stock Assessment Options**

Dr. Jim Hastie provided Agenda Item B.4.b, Supplemental NMFS PowerPoint.

**B.4.c Reports and Comments of Advisory Bodies and Management Entities (06/15/10; 1:02 p.m.)**

Dr. Martin Dorn provided Agenda Item B.4.c, Supplemental SSC Report. Mr. Gerry Richter provided Agenda Item B.4.c, Supplemental GAP Report.

**B.4.d Public Comment**

None.

**B.4.e Council Action: Adopt Final Terms of Reference, Stock Assessments list and Assessment Schedule for 2011**

Mr. Moore moved and Ms. Kirchner seconded Motion 23 to adopt the terms of reference for Groundfish Stock Assessment and Review and Groundfish Rebuilding Analysis shown in Agenda item B.4.a, Attachment 1 and Attachment 2, and a list of groundfish stock assessments and reviews as follows:

Using Table 2 on Agenda Item B.4.b, NMFS Report, modify the table as follows:

	Dates	Species 1	Species 2	Location
Whiting	Feb	Whiting		Seattle
Panel 1	Early May	Methods for determining harvest specifications for data-poor species		Santa Cruz
Panel 2	Late June	Pacific ocean perch	Petrable sole	Seattle
Panel 3	Mid July	Widow rockfish	Spiny dogfish	Newport OR
Panel 4	Late July	Sablefish	Dover sole	Seattle
Panel 5	Early August	Greenspotted	Blackgill	Santa Cruz
Updates	Mid-June	Bocaccio, canary, cowcod (data report) darkblotched, yelloweye		TBD
Mop-up	Late Sept/ Early Oct	TBD		Seattle

Regarding Panel 1, the Southwest Fisheries Science Center is requested to prepare for a STAR panel type review of the report “Estimating Yield for Unassessed Species” (Agenda item B.3.a attachment 7), associated vulnerability analyses, and alternate methods for identifying overfishing levels (OFLs) for tier 2 and tier 3 stocks.

Mr. Lockhart asked Mr. Moore if the motion allowed flexibility for dates of the meetings? Mr. Moore replied that he assumes some flexibility as long as it is done within reason so we are not dropping things.

Mr. Anderson moved and Ms. Vojkovich seconded an amendment to Motion 23 to add the two recommendations from Agenda Item B.4.c, Supplemental SSC Report – 1) that a separate Pacific whiting assessment TOR be developed jointly with Canada; and also to add that recommendation to the TOR Introduction; and 2) that three weeks prior to a STAR panel is a reasonable deadline for a stock assessment draft; the text in the TOR should be modified to remove “no less than” prior to “three full weeks.”

Dr. McIsaac asked about the joint TOR. Mr. Anderson said if that TOR would be developed, then it would come back to us for approval on our side and the Canadian side as well.

Amendment to Motion 23 carried unanimously. Motion 23 as amended carried unanimously.

## **B.5 Consideration of Inseason Adjustments**

### **B.5.a Agenda Item Overview (06/16/10; 8:12 a.m.)**

Ms. Kelly Ames provided the agenda item overview.

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

Mr. Rob Jones provided Agenda Item B.5.b, Supplemental GMT Report 2 (and briefly referred to Agenda Item B.5.b, GMT Report 1). Mr. Tommy Ancona provided Agenda Item B.5.b, Supplemental GAP Report. Ms. Vojkovich spoke to Agenda Item B.5.b, Supplemental CDFG Report. Mr. Lockhart summarized Agenda Item B.5.b, NMFS Report.

### **B.5.c Public Comment**

Mr. Michael Deach, longliner, WA

Mr. Bob Ingles, Golden Gate Fishermen’s Association, Hayward, CA

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

Mr. Robert Alverson, Fishing Vessel Owner’s Association, Seattle, WA

### **B.5.d Council Action: Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries (06/16/10; 9:07 a.m.)**

Mr. Steve Williams moved and Mr. Moore seconded Motion 26 to adopt the following recommendations in Agenda Item B.5.b, Supplemental GMT Report 2, page 7, with some slight modifications: adopt limited entry trawl trip limits outlined in Table 3 (with the exception of slope rockfish limit in Period 1 North) for implementation by July 1, 2010 to keep projected impacts to sablefish within the trawl allocation and to keep projected impacts to petrale sole below the 2010 petrale sole optimal yield; to increase the chilipepper bimonthly trip limit in the limited entry trawl fishery south of 40°10' N. latitude from 12,000 to 17,000 pounds per two months, to be implemented by July 1, 2010 or as soon as possible; increase the limited entry daily trip limit fishery bimonthly sablefish limit north of 36° N. latitude from 7,000 pounds per two months to 8,500 pounds per two months beginning July 1, 2010 for periods 4 and 5, and 8,000 pounds per two months for period 6.

Mr. Williams spoke to his motion referencing the analysis in the GMT report.

Motion 26 carried unanimously.

Mr. Steve Williams moved and Mr. Moore seconded Motion 27 to follow the reductions outlined in Agenda Item B.5.b, Supplemental GAP Report. The reductions are as follows: reduce the Oregon Exempted Fishing Permit (EFP) yelloweye rockfish allowance by 0.1 mt; reduce the nearshore yelloweye impacts from 1.3 mt to 1.1 mt; reduce California recreational fisheries impact to yelloweye by 0.1 mt – from 2.8 mt to 2.7 mt; and 0.2 mt off the Washington and Oregon recreational fisheries – from 5.1 mt to 4.9 mt.

Mr. Williams spoke to his motion referencing public testimony and the advisory body statements. Mr. Lockhart referenced the GAP report and noted that the reduction to 14 mt in the yelloweye rockfish optimal yield impacts both the fishing communities and planned research. Mr. Lockhart said the yelloweye rockfish research is important to inform the stock assessment and future management. However, given the timing of the court order there are very few options. Mr. Moore commented that the court order requires reductions now and in future years that provide harvest levels based on the best science available. He noted that it is difficult to get the best scientific information available if the optimal yield is not set high enough to provide for research. Given these circumstances, Mr. Moore felt that the Council action was the right thing to do, given the mandate for short-term action, however, we need to further explore solutions for the future.

Mr. Sones said the tribes did not reduce their projected impacts to yelloweye but are sensitive to the issue. The tribes were asked to consider further reductions; however, it is difficult given that three or four tribes are involved in fisheries that impact the resource. Further, the fisheries are at different stages of completion and it was difficult to accurately project the level of reductions that could be accomplished.

Mr. Wolford said the reductions in the motion do not sound too big, but in reality these are long-term impacts to the community. We are taking advantage, for example, that individuals in Shelter Cove have gone out of business, lowering impacts to yelloweye in this region. All of these short-term cuts are resulting in long-term impacts. The changes in the motion do not sound dramatic, but taken in total with all of the other reductions, it is a significant impact.

Mr. Lockhart asked if the motion would change the harvest guidelines for the recreational fisheries. Mr. Steve Williams said yes.

Motion 27 carried unanimously.

Mr. Steve Williams discussed the incidental retention of lingcod in the salmon troll fishery mentioned in the GMT report. He did not believe it was ever the intent of the Council to restrict fishermen who fish in the open access fishery to stay outside the rockfish conservation areas (RCA) boundary.

Mr. Anderson moved and Ms. Vojkovich seconded Motion 28 to request that NMFS modify their regulations as needed to correct the allowances for incidental retention of lingcod in the salmon troll fishery, and to allow vessels that do not enter an RCA during a single trip be allowed to retain lingcod under current open access fixed gear fishery regulations.

Motion 28 carried unanimously.

## **B.6 Regulatory Deeming for Fishery Management Plan (FMP) Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)**

### **B.6.a Agenda Item Overview (06/16/10; 9:50 a.m.)**

Dr. McIsaac expressed his appreciation for the personnel who will be providing their expertise during this agenda item. Mr. Lockhart and Ms. Cooney both provided insight on what was properly noticed as to what proper actions the Council could take during this agenda item. On May 7, 2010, the Council transmitted the FMP amendments themselves and the regulations that were deemed by the Council and the Executive Director. That transmittal started the "Magnuson clock." As far as the FMP amendments are concerned, there is no way to delay that, there cannot be additional recommendations provided. As has been mentioned, because this program is so complex, NMFS believes we needed to break it up into two regulatory packages. Today's agenda item focuses on the "deeming" for the second regulatory package. If the Council has a comment on the entire amendment, it should use the public comment procedure as listed in the Federal Register notice.

Dr. John Coon provided the agenda item overview. (06/16/10; 10:06 a.m.)

Ms. Jamie Goen provided a PowerPoint (Agenda Item B.6.a, Supplemental NMFS PowerPoint 1 [Goen]). During her presentation, she noted there were a couple of corrections to the program components rule document: on page 46, delete "other fish" from vessel limit table; and on page 69 delete "gear switching."

Dr. Todd Lee provided a PowerPoint presentation (Agenda Item B.6.a, Supplemental NMFS PowerPoint 2 [T. Lee]).

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

Mr. Merrick Burden provided Agenda Item B.2.b, Regulatory Deeming Workgroup Report and Agenda Item B.2.b, Supplemental Regulatory Deeming Workgroup Report 2.

Mr. Ancona provided Agenda Item B.6.b, Supplemental GAP Report.

Deputy Chief Cenci provided Agenda Item B.6.b, Supplemental EC Report.

Then Council went back to the NMFS response. Ms. Goen quickly went through the response document. She then said that NMFS would go through the Regulatory Deeming Workgroup (RDW) Report 2 line by line at their next meeting.

#### **B.6.c Public Comment**

Mr. Paul Kujala, F/V Cape Windy, Warrenton, OR  
Mr. Peter Leipzig, Fisherman's Marketing Association, Eureka, CA  
Ms. Michele Norvell, trawler, Fort Bragg, CA  
Mr. Ernie Norvell, trawler, Fort Bragg, CA  
Mr. Tom Estes, trawler, Fort Bragg, CA  
Mr. Vince Doyle, Fort Bragg, CA  
Mr. Robert Smith, commercial fishermen, Newport, OR  
Mr. Mike Storey, F/V Pegasus, Warrenton, OR  
Mr. David Jincks, Midwater Trawlers Co-Operative, Newport, OR  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Dennis Cutting, F/V Bernadette, Coos Bay, OR  
Mr. Gerald Gunnari, F/V Coastal Pride, Coos Bay, OR  
Mr. Donnie Goddard [no card]  
Mr. Jim Cunningham [no card]  
Mr. Craig Urness, Pacific Seafoods, Clackamas, OR

Mr. Tim Carroll, Saltwater, Inc., Anchorage, AK  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Bill James, commercial fisherman, Salem, OR  
Mr. Richard Carroll, Ocean Gold Seafoods, Seattle, WA

**B.6.d Council Action: Consider Regulatory Deeming and Implementing Issues for the FMP Amendments**

Dr. McIsaac noted that the first determination needed was whether the regulations were ready for deeming and, if not, a delay until September would be required, and the January 1 implementation date would not be met. The question of readiness can be handled as two questions. For the question of whether the regulations can be deemed now, the answer seems to be “no,” since the package is not complete. The other question is, following a process that includes additional review by the Regulatory Deeming Workgroup (RDW) and deeming by the Executive Director, can these regulations be deemed as consistent with Council action by July 19? There was discussion about deeming the regulations but delaying implementation. Ms. Cooney noted that the approval process is already underway, this would be advice to the Secretary, and expressed concern that such an action (delay) had not been noticed in the agenda. Mr. Lockhart noted the possibility of moving forward with deeming by July 19 and then deciding in September, during the public comment period on the proposed rule, whether or not to recommend a delay in implementation. Ms. Cooney expressed the opinion that if the Council thinks there should be a delay, it should not wait until September to make that recommendation. If people wanted more time, the Council could take that action and the Secretary would have to decide whether or not there was adequate notice. Council members expressed opinions both in agreement and disagreement with whether the public notice was adequate to allow the Council to recommend a delay in implementation.

In response to a question from Ms. Culver, Ms. Goen reviewed Issue 1 of Supplemental NMFS Powerpoint 1 (Goen), and confirmed that Option B would require an appeals process. If the Council wants to allow a hardship provision, the times need to be bumped up to provide time for appeals.

Ms. Culver moved and Mr. Myer seconded a motion to adopt Option B and Suboption B for Issue 1. It was noted that Suboption B was really a separate option rather than a suboption of Option B. The motion was withdrawn.

In response to a question, Ms. Goen noted that the QS renewal issue did not affect limited entry permit renewal. Mr. Moore noted this would create two renewal periods, one for the limited entry permits and one for QS, and that the QS period would be during the summer when many people are fishing. Mr. Williams commented on the need for an earlier renewal period if there is to be an opportunity to allow for a hardship provision. Ms. Vojkovich spoke in favor of Option A because it would keep the program simple and therefore less costly. Ms. Culver agreed with Ms. Vojkovich’s assessment of the impacts for Option A, but also felt that there were benefits from Option B, which would not strand quota pounds (QP) and would allow for appeals.

Ms. Culver moved and Mr. Moore seconded Motion 29 to adopt Option B as reflected on the screen (Supplemental NMFS Powerpoint 1 (Goen)) without Suboption B. In response to a question from Ms. Cooney, Ms. Culver clarified that failure to renew would result in redistribution of QP to the rest of the fleet in the following year, but once renewed, the QS owner would get the QP for years subsequent to that. Motion 29 carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 30 relative to Issue 2 that the Council adopt Option A, the NMFS-preferred option that QS transfers be divisible to one thousandth of a percent, provided that when QS is converted to QP that it is issued in whole pounds. Mr. Lockhart asked about

the rounding rules that would be used for issuing QP. Ms. Culver suggested rounding to the nearest whole pound. Motion 30 passed unanimously.

Ms. Culver moved (Motion 31) with regard to Issue 3, IBQ transferability, that the Council adopt Option A which is the NMFS-preferred option. The IBQ would not be transferable in the first two years but IBQ QP would be transferable, which is the same as the IFQ QS and QP. Ms. Vojkovich seconded the motion. Ms. Vojkovich supported the motion because while IBQ is different technically, the way we deal with it should be the same as the way we deal with the IFQ. Mr. Myer agreed. Motion 31 carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 32 with regard to Issue 4, the mothership sector ownership rules, that the Council adopt Option B, mothership catcher-vessel endorsed permits and mothership permits are subject to the individual and collective rule in determining ownership for the purpose of accumulation and usage limits. Ms. Vojkovich noted that this is consistent with how the rule had been applied to all of the other sectors. The Council heard at the April meeting that there are some concerns with regard to how this rule is applied and whether it pertains to private contracts, loans, or long-term agreements. That is an issue the Council should address in the future across all sectors. Mr. Moore noted that while he was not in favor of the regulations on the ownership and collective rule, he agreed that if the rule is going to be applied that it needs to be applied equally to all. Therefore, he supported the motion. Motion 32 carried. Mr. Myer recused himself due to his interest in the mothership sector.

Mr. Moore expressed concern that individuals could be penalized by denial of their initial issuance applications and applications for renewal if individuals who are linked to their operation, other than themselves, failed to submit the required economic data collection (EDC) forms. He felt the MSA already provided adequate penalties to address failure to submit required data. Mr. Lockhart noted the importance of the baseline information and subsequent information for NMFS' ability to meet its MSA requirements for reviewing program performance. At the same time, some good points had been made by the RDW and public regarding the need for clarity and appropriateness of linkages in certain situations. They will be taking these comments into account in the next draft. Ms. Cooney made several comments regarding the precedence for making permit renewal contingent on data submission and the actions of others.

Mr. Lockhart noted that NOAA was not anticipating cost recovery would be in place by January 1, 2012, so the absence of the cost recovery program should not be a reason for delay. With respect to concerns about cost recovery being "too much of an unknown," he noted the 3 percent cap minimized uncertainty. With respect to what needs to be completed on the components rule, the main pieces are the interim first receiver site licenses and catch monitoring provider provisions; the second is the provisions on direct reallocation. The reallocation language will likely be identical to that in Appendix D, Section A-2.1.6 of Amendment 20. Those things will be in front of the RDW meeting later this month. Also, in response to public comment, they are working on an outreach plan to work with the industry. In response to Mr. Moore, Mr. Lockhart indicated that in the absence of cost recovery rules he anticipated that there would be a good chance of Federal funding until the cost recovery rules are in place and that if that did not occur they would have to come back to the Council to consider what to do.

Mr. Steve Williams moved and Ms. Culver seconded Motion 33 that the Council find the draft trawl rationalization program component rules contained in Agenda Item B.6.b, Supplemental NMFS Report 2, and modified by the Council action and guidance on this item at this meeting, consistent with the final Council action and intent on trawl rationalization. Mr. Williams noted the RDW workgroup has made this process work better. He had listened intently yesterday as we went through the rules themselves and listened to the materials provided by the team and others, the responses, and the approach that NFMS has taken. NMFS has been responsive to a number of the comments and suggestions that have been made.

There will always be more work to be done, but the rules before us, while some may still say they are not perfect, certainly meet the Council intent regarding the trawl rationalization program. Ms. Vojkovich noted that there are some artifacts of our previous management style that would be on our list of things to do. Motion 33 carried. Mr. Moore voted no.

Ms. Culver suggested it would be appropriate to have some Council member review of the new language and the modified language and to consider any other issues that might be raised during the upcoming RDW meeting. Rather than a meeting, perhaps have a Groundfish Allocation Committee (GAC) conference call with appropriate listening stations, in mid-July. Recommendations of the GAC would go to the Executive Director to advise him when he considers deeming the regulations. Mr. Moore noted that the normal process would be for the GAC to advise the Council. The RDW has an open public meeting June 30 and July 1. If we are not going to have full Council review of the regulations prior to the July 19, it might be just as well to rely on the RDW to advise the executive director.

Ms. Culver moved and Mr. Myer seconded Motion 34 that the Council schedule a Groundfish Allocation Committee (GAC) conference call for July 14; the purpose of that would be to review the draft regulatory language associated with the outstanding issues of the program components rule and to formulate recommendations that would be forwarded to the Executive Director in his consideration of whether the regulations are consistent with Council action. Motion 34 passed. Mr. Moore voted no.

## **B.7 Final Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries (9:50 a.m.)**

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

Ms. Ames and Mr. DeVore provided the agenda item overview.

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

Mr. Jones provided Agenda Item B.7.b, Supplemental GMT Report. Mr. Ancona provided Agenda Item B.7.b, Supplemental GAP Report. Deputy Chief Cenci provided Agenda Item B.7.b, Supplemental EC Report.

Ms. Kirchner reviewed Agenda Item B.7.b, Supplemental ODFW Report 1 and Supplemental ODFW Report 2. Ms. Vojkovich summarized Agenda Item B.7.b, Supplemental CDFG Report.

Ms. Ames walked the Council through Agenda Item B.7.a, Supplemental Attachments 1 through 4.

### **B.7.c Public Comment**

Mr. Jeff Russell, NRDC, San Francisco, CA

Ms. Laura Pagano, NRDC, San Francisco, CA

Mr. Daniel Platt, STMA, Fort Bragg, CA

Mr. Gerry Richter, Pt. Conception Fishermen's Association, Santa Barbara, CA

Mr. Ralph Brown, trawler, Brookings, OR

Mr. Melvin de la Motte, San Luis Obispo, CA

Mr. Steve Moore, Patriot Sportfishing, Avila Beach, CA

Mr. Bob Ingles, Golden Gate Fishermen's Association, Hayward, CA

Mr. Bill James, Port San Luis Fishermen's Association, Salem, OR

**B.7.d Council Action: Adopt Final Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries**

Ms. Culver asked if the Council does not recommend a specific change to management measures for 2011-12 if the status quo regulation would be carried forward. Mr. Lockhart and Ms. Ames agreed that is what would occur. Ms. Ames noted one exception: except south of 36° N. latitude for the open access sablefish fishery, the Council will need to provide guidance on crafting those trip limits, which will then be published in the proposed rule.

Mr. Lockhart said the GMT also has recommended that the GMT, NMFS and Council staff be able to provide corrections and modifications to ensure Council intent. The NWR supports that guidance.

Ms. Culver moved and Mr. Myer seconded Motion 35, to adopt the OFLs, ABCs, ACLs, and ACTs for all groundfish stocks as presented in Agenda Item B.7.a, Supplemental Attachment 1; except cowcod where the 2011-12 ACL would be set at 4 mt.

Ms. Culver spoke to her motion, specifically to the overfished stocks and the values represented in Agenda Item B.7.a, Supplemental Attachment 1. Relative to petrale sole, the  $T_{TARGET}$  of 2016 adds two years of rebuilding relative to the zero harvest option and rebuilds five years earlier than  $T_{max}$ , which would be specified at 2021. The ABC would represent the SPR harvest rate for 2011 and thereafter the 25:5 harvest control rule would be in place. Petrale meets the MSA requirement to rebuild within 10 years, which is why  $T_{max}$  is specified at 2021.

For canary rockfish, the ACL would result in  $T_{TARGET}$  of 2027 with an SPR harvest rate of 88.7 percent; this is the SPR harvest rate in the preliminary preferred alternative and is the level currently specified in the FMP. This harvest level adds 3 years to rebuilding relative to the zero fishing option. Due to the nature of the canary stock, even higher harvest levels have small impacts on the time to rebuild. For example, the 155 mt alternative only adds another year to the time to rebuild.

For POP, the harvest level would result in a  $T_{TARGET}$  of 2020 and a SPR harvest rate of 84.6 percent, which is the current harvest rate specified in the current FMP. It would add two years to rebuilding relative to the zero fishing option. Given that recent catches of POP were estimated to be below the specified ACLs, we are proposing an ACT target of 150 mt.

Relative to bocaccio, the  $T_{TARGET}$  would be specified at 2022, which is 4 years shorter than current  $T_{TARGET}$ . The bocaccio SPR rate would be 77.7 percent.

For darkblotched rockfish, the  $T_{TARGET}$  would be 2025 and an SPR rate of 64.9 percent. This is considerably more conservative than the current SPR rate and adds 9 years to rebuilding relative to the zero fishing options. It also rebuilds 3 years faster than the current  $T_{TARGET}$ .

For widow, the  $T_{TARGET}$  is 2010 and the rebuilding plan is to specify a constant catch scenario which would result in rebuilding 5 years earlier than the current  $T_{TARGET}$  specified in the FMP.

For yelloweye rockfish, the  $T_{TARGET}$  would be 2084 with an SPR harvest rate of 72.8 percent, which represents the values currently specified in the FMP. This rebuilds 3 years earlier than the median time to rebuild under the SPR harvest rate in the FMP and adds 37 years to rebuilding relative to zero fishing option.

For cowcod, the new  $T_{TARGET}$  is 2071 with a SPR of 79 percent which adds 11 years to rebuilding relative to the zero fishing option and it is one year less than the current  $T_{TARGET}$ . As noted in the GMT report, most of the cowcod habitat is currently protected within the Cowcod Conservation Area. We have had considerable Council discussion regarding the non-overfished species previously.

Mr. DeVore asked if other than petrale, POP, and canary where we have to set new  $T_{TARGETS}$ ; when you referenced the  $T_{TARGETS}$  for the other overfished species, did you mean the median time to rebuild under that harvest alternative? Or were you recommending that the  $T_{TARGET}$  equal the median time to rebuild? Ms. Culver said, consistent with the action taken on Tuesday, we would be updating the rebuilding plans by setting the  $T_{TARGET}$  equal to the median time to rebuild.

Mr. Moore moved to amend motion 35 (Amendment #1 to Motion 35) by setting the chilipepper OFLs to 2,073 mt in 2011 and 1,872 mt in 2012. The ACL would be set equal to the ABC at 1,990 mt in 2011 and 1,797 mt in 2012. The intent is to manage chilipepper south of 40°10' N. latitude with these specifications. North of 40°10' N. latitude, chilipepper would be managed as part of the minor shelf rockfish-north complex; and the OFLs and ABCs would be recalculated accordingly by Mr. John DeVore's numbers. Ms. Kirchner seconded the amendment.

Mr. Moore said, when the Council made the preliminary preferred decision earlier in the week, coastwide harvest specifications for chilipepper were set. Historically, we have managed chilipepper in the north as part of the minor shelf rockfish complex and with stock-specific harvest specifications in the south. He said his amendment continues the historical management structure for chilipepper. Mr. Lockhart asked about the difference between the numbers in the motion and amendment. Was it a proportional reduction? Mr. Moore said, based on the GMT analysis, it was approximately a 7 percent reduction from the coastwide OFL contributing to the minor shelf rockfish north complex. Ms. Cooney asked if the ABC moved by Mr. Moore was still consistent with the SSC recommendation. Mr. Moore said yes and Mr. DeVore confirmed that the numbers were calculated correctly.

Mr. DeVore went through the calculations for minor shelf rockfish north in greater detail.

Amendment #1 to Motion 35 carried unanimously.

Mr. Moore moved and Ms. Gway Kirchner seconded Amendment #2 to Motion 35 to set the ACT for POP at 157 mt.

Mr. Moore said earlier in the week the preliminary ACT was set at 150 mt. The GMT did some analysis and demonstrated that incidental catch of POP has been as high as 157 mt in recent years. It has been difficult to avoid POP and he would hate to see a fishery closure based on a 7 mt difference. The ACT would still be set well below the ACL of 180 mt.

Mr. Lockhart said since POP is an overfished species he would like further elaboration on why the level Mr. Moore moved takes into account the relevant MSA requirements. Mr. Moore said if the whiting fishery encounters endangered species like salmon or higher interactions with overfished species shoreward of the RCA, then the Council and NMFS would implement management measures to move the fleet into deeper waters. Moving the fleet into deeper water may reduce catches of salmon and canary, however, it puts them into POP territory. The alternative would be to shut the whiting fishery down, which would have significant impacts to coastal communities in Washington and Oregon. The rebuilding plan is based on the ACL and the change to the ACT would not affect the time to rebuild. The change to the ACT would, however, provide greater insurance against economic harm to coastal communities.

Amendment #2 to Motion 35 carried unanimously. Main motion 35 as amended carried. Mr. Lockhart abstained.

Mr. Lockhart said there is a lot of analysis and information before us this week and today. We are still working through the ACL amendment (Amendment 23) for the reauthorized MSA as well as the recent court decision. The Secretary of Commerce will look at all of the analysis and review the recommendations forwarded from the Council prior to making a decision. NOAA does have concerns about a couple of the decisions, specifically for cowcod and yelloweye. We will be looking at the Council's submission and the entire record before we make our determination.

Ms. Culver moved and Ms. Vojkovich seconded a motion (Motion 36) for yelloweye rockfish that a total of 5.9 mt shall be taken off the top with 0.1 mt set-aside for EFPs, referencing Agenda Item B.7.a, Supplemental Attachment 3. The fishery allocations shall be 0.6 mt for limited entry non-whiting trawl, 1.3 mt for the non-nearshore fisheries which includes limited entry and open access fixed gear fisheries, 1.1 mt for the nearshore fixed gear fisheries, 2.6 mt for Washington recreational, 2.4 mt for Oregon recreational, and 3.1 mt for California recreational.

Ms. Culver stated that, consistent with Agenda Item B.7.b, Supplemental GMT report, Table 10 on page 13, the trawl harvest guideline has been 0.6 mt even though impacts have been below that in recent years. With the new trawl rationalization fishery, the trawl sector needs an adequate amount to be successful. The non-nearshore model estimates impacts at 0.9 mt, and the 1.3 mt share is appropriate given that under a rationalized fishery there is a hard allocation. Any inseason action that is needed relative to yelloweye in the commercial fixed gear or recreational fisheries would need to come out of the non-trawl fisheries; as such it is important to ensure that the non-trawl sectors have sufficient yelloweye rockfish for their operations. Relative to nearshore fisheries, earlier in the week, the Council had considerable discussion regarding the impacts outlined on Table 13 in the GMT report, on page 21. The Washington and Oregon recreational fisheries are projected to come in just under their harvest guideline. In order for the California recreational fishery to have status quo regulations (i.e., adding two weeks back into August relative to Figure 3 in the GMT report) this would require 3.1 mt of yelloweye impacts. The total fishery impacts of yelloweye rockfish is 11.1 mt. In the past, the Council has considered research, tribal, and the needs of the individual fisheries prior to setting aside the EFP values. That's what she's tried to follow here, which results in 0.1 mt yelloweye rockfish remaining for EFPs in 2011-12.

Ms. Kirchner asked whether the motion intends for the Washington and Oregon yelloweye rockfish amounts to be specified separately as harvest guidelines. Ms. Culver said state-specific harvest guidelines.

Motion 36 carried. Mr. Lockhart abstained.

Ms. Culver moved and Mr. Myer seconded Motion 37, using Agenda Item B.7.a, Supplemental Attachment 6, to adopt the canary amounts to be the same in both 2011 and 2012; that the total off-the-top deduction should be 20 mt with the values specified in the attachment. For the limited entry non-whiting trawl fishery 20 mt; for the non-nearshore fixed gear fishery 2.3 mt; for the nearshore fixed gear fishery 4 mt; Washington recreational 2 mt; Oregon recreational 7 mt; California recreational 14.5 mt; limited entry whiting trawl amounts for catcher-processors 4.6 mt; motherships 3.2 mt; and shoreside whiting 5.7 mt.

Ms. Culver said that the trawl harvest guideline has been 19.3 mt and the current estimated impacts are 10.6 mt. Canary rockfish are susceptible to trawl gears and under a rationalized fishery structure, the fleet needs a sufficient allocation to be successful. The non-nearshore impact of 2.3 mt is consistent with the estimated impacts. The nearshore fixed gear fisheries are estimated to take 4 mt. For Washington recreational, the harvest guideline would be reduced from 4.4 mt to 2 mt. For Oregon, the harvest

guideline would be reduced from 14.5 mt to 7 mt for Oregon. The harvest guidelines of 2 mt and 7 mt for Washington and Oregon recreational fisheries, respectively, are consistent with estimated impacts in the past 6 years. The 14.5 mt harvest guideline for California recreational accommodates the projected impacts with a buffer. The limited entry whiting trawl values are consistent with the intersector allocation approach. By adopting the previously mentioned amounts, there is a residual which could be used to accommodate any overages in fisheries or set-asides.

Ms. Ames asked for clarification regarding the EFP set-asides. Ms. Culver said the canary rockfish EFP set-asides are 1.3 mt; consistent with Supplemental Attachment 3.

Ms. Ames asked, for the limited entry whiting trawl sector, is the intent of the motion to maintain the preliminary preferred allocations which were 14 mt in 2011 and 14.8 mt in 2012? If yes, the pro-rata distribution in the motion is incorrect. It should be 4.8 mt; 3.4 mt and 5.9 mt for 2011 for the catcher-processor, mothership, and shoreside sectors (respectively). For 2012, the allocations would be 5 mt, 3.6 mt, and 6.3 mt for the catcher-processor, mothership, and shoreside sectors (respectively).

Ms. Culver said the intent was for the pro-rata distribution and modified her motion accordingly to be consistent with previous Council action.

Mr. Meyers commented that he supports leaving a balance in the scorecard for canary.

Motion 37 carried. Mr. Frank Lockhart abstained.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 38 to adopt the bocaccio allocations and values contained on screen which are also displayed in Agenda Item B.7.a, Supplemental Attachment 6, in the column entitled "GMT Report Share" for 2011-2012. Further, the off the top amounts would be 13.4 mt.

Ms. Vojkovich said she hopes these amounts will provide for the rationalized trawl fishery and the fisheries that are currently taking place as the bocaccio stock rebuilds.

Mr. Moore said he supported the motion, but there is no reserve or residual; are you sure this is what you want? This is what the GMT recommended said Ms. Vojkovich.

Motion 38 carried. Mr. Lockhart abstained.

Ms. Ames asked to clarify the amount of bocaccio to be specified in the set-aside for EFPs.

Mr. Moore moved and Ms. Culver seconded Motion 39 to adopt the bocaccio rockfish set-aside by category numbers in Agenda Item B.7.a, Supplemental Attachment 3. Mr. Moore felt it was important to clarify the amounts for the set-asides. Motion 39 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 40 for cowcod south of 40°10 N. latitude that the off-the-top deduction for EFPs be specified at 0.2 mt; limited entry non-whiting trawl be set at 1.8 mt; the remainder of non- trawl fisheries, including the recreational fisheries, is represented at 0.9 mt.

Ms. Vojkovich said the limited entry trawl allocation is in line with historical catches of cowcod and will accommodate the fleet as they move toward a rationalized fishery structure and a new method of fishing. The non-trawl sectors have been below 0.9 mt in the past and this is a pretty conservative amount for cowcod in the south; it leaves quite a residual.

Motion 40 carried. Mr. Lockhart abstained.

Ms. Culver moved and Mr. Myer seconded Motion 41, using Agenda Item B.7.a, Supplemental Attachment 3, Table 1, to adopt the set-asides in Table 1 for darkblotched, POP, widow, and petrale sole. In addition, for 2011 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 876 mt. In addition, for 2012 set a non-trawl allocation for petrale sole of 35 mt and a trawl allocation of 1,060 mt.

Ms. Culver spoke to her motion. The GMT estimated that the non-trawl harvest has been around 15 mt in recent years. There needs to be a hard allocation between trawl and non-trawl fisheries. The non-trawl allocation is sufficiently large enough to keep the non-trawl sector within their allocation.

Motion 41 carried. Mr. Lockhart abstained.

Ms. Vojkovich moved and Mr. Moore seconded Motion 42 to withdraw Motion 38 on bocaccio. Motion 42 passed unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded a substitute motion (Motion 43) that the 2011 and 2012 limited entry, non-trawl whiting allocation be set at 60 mt; non-nearshore fishery at 57.9 mt; nearshore fixed gear fisheries at 0.7 mt, and California recreational fishery at 131 mt. Ms. Vojkovich specified an EFP set-aside for bocaccio of 11 mt for 2011 and 2012.

Ms. Vojkovich said the intent of her substitute motion is to accommodate the needs of the upcoming trawl individual quota (TIQ) program, make sure we have the proper set-asides, and proper amounts for the rest of the fisheries.

Motion 43 carried. Mr. Lockhart abstained.

Working from Agenda Item B.7.b, Supplemental GMT Report, the list of recommendations on page 49, Ms. Culver moved and Mr. Myer seconded Motion 44 to adopt #1—the Amendment 21 allocations in Tables 1 and 2, as modified by Council action today; #2—two-year allocations necessary for trawl rationalization initial allocations as shown in Table 3; #3—sablefish allocations in Table 4; #7—specify a blue rockfish harvest guideline for California of 241 mt in 2011 and 239 mt in 2012; #9—specify bimonthly sablefish limits for the limited entry daily trip limit fishery beginning January 1, 2011 of 6,500 pounds for period 1, 7,500 pounds for periods 2-5, and 6,000 pounds for period 6; for #10—use the sablefish trip limit structure between open access and limited entry south of 36° N. latitude included in the GAP report on page 4 which is: 1) for limited entry: no daily limit, 2,000 pounds per week, with no bi-monthly limit and 2) for open access: 400 pounds per day or 1 weekly landing of up to 1,500 pounds not to exceed 6,000 pounds in 2 months; #12—adopt trip limits and RCA for non-whiting trawl if rationalization is delayed beyond January 1, 2011 as specified in GMT report; #14—adopt IFQ incidental trip limits as described in letters a-e; #16 set the non-trawl RCA at the status quo boundary; and #17—adopt all trawl RCA modifications proposed by ODFW.

Ms. Culver spoke to her motion by saying that the GMT report laid out the rationale for her recommendations. The Council also heard good rationale from the GAP and public regarding the south of 36° N. latitude sablefish trip limit structure, which can be tracked and modified inseason. The incidental trip limits are necessary under the rationalized fishery and the team gave considerable thought to what might occur under the gear switching provisions. Relative to the non-trawl RCA, the default would be the status quo; however, she thought it prudent to be clear about her intent.

Ms. Kirchner asked if the status quo non-trawl RCA was specified at 100 fm coastwide. Ms. Ames noted the non-trawl RCA is currently specified at 125 fm from 45°03.83' to 43° N. latitude off Oregon, except on days where the directed Pacific halibut fishery is open. On those days, the line is specified at 100 fm.

Ms. Kirchner moved to amend Motion 44 to adopt the recommendations contained in Agenda Item B.7.b, Supplemental ODFW Report 2, summarized on page 11. These recommendations address the management measures needed for the Oregon recreational groundfish fishery for 2011 and 2012, modifications to the seaward non-trawl RCA boundary from 45°03.83' to 43° N. latitude which would be specified at 100 fm, and the ODFW proposed modifications to the 100 and 125 fm RCA waypoints. Ms. Lowman seconded the amendment. Ms. Kirchner spoke to her motion by referencing the ODFW report and noting that Ms. Culver's motion already covered several items in the ODFW report.

Amendment #1 to Motion 44 carried unanimously.

Mr. Lockhart said any time modifications to RCA waypoints are recommended, NMFS completes a thorough review. We ask that NMFS be given latitude to work with the states and the Office of Law Enforcement to make any necessary corrections. The Council concurred.

Mr. Rod Moore made Amendment #2 to Motion 44, seconded by Ms. Kirchner, to set the trawl RCAs as they exist on June 17, 2010 for a rationalized trawl fishery for 2011.

Amendment #2 to motion 44 carried. Ms. Vojkovich voted no, Mr. Lockhart abstained.

Mr. Moore made Amendment #3 to Motion 44, seconded by Ms. Kirchner, to adopt the recommendations of the Enforcement Committee in Agenda Item B.7.b, Supplemental EC report, with the verbal changes made earlier and updated in the revised report.

Amendment #3 carried unanimously. Motion 44 carried as amended unanimously.

Ms. Vojkovich moved and Mr. Crabbe seconded Motion 45 to adopt the final preferred alternatives projected on the screen for California (see Agenda Item B.7.d, Supplemental CDFG Motion in Writing). Items in strikeout were already included in Ms. Culver's main motion, so are stricken from the CDFG motion.

Ms. Vojkovich spoke to her motion noting that she outlined the rationale supporting her motion under the tentative adoption. She wanted to speak to the more controversial items #8 and #12, regarding the Cowcod Conservation Areas. Currently, the management system operates under depth contours and not RCAs, which is a more rigorous and enforceable system. We have outlined the waypoints for both 30 and 40 fm so we can have them in regulation for use at a later date. As far as increasing access from 20 to 30 fm, we have references in the analysis that show it is rare to find cowcod shallower than 50 fm. All of the modeling we use includes data from when the area was open, so no additional impacts are anticipated or projected in the model as a result of this change. We heard in public testimony and we can see it in the charts, there is a gradual decline in depth and the purpose of the waypoints will serve the intent of staying within 30 fm. Further, allowing individuals to retain shelf rockfish turns discard into retained species.

Mr. Crabbe made Amendment #1 to Motion 45, seconded by Dave Hanson, to amend the scorpionfish seasons from "year round" to "when open."

Amendment #1 to motion 45 carried.

Mr. Lockhart asked for clarifications on items #12 and #8. Mr. Lockhart said these items cause concern for the agency. He understands statements by the public and GMT indicate that cowcod are rarely found between 20 to 30 fm. He notes that there has not been much fishing effort in this area and suggested that an EFP might be a better path to collect data on cowcod occurrence. Based on those data, perhaps a consideration could be made to allow widespread access to those areas.

Ms. Vojkovich noted that this is the second time CDFG has tried to open this area based on numerous data that indicate few, if any, cowcod are available at those depths. All of the projected impacts and all of the data that are in the stock assessment use data from when the Cowcod Conservation Area was open. There is no evidence in the literature or existing data sources where there has been appreciable catch of cowcod, other than a rare occurrence. There are also marine protected areas that are being implemented in southern California which will further limit the area where recreational anglers can fish. The EIS further details the analysis and CDFG believes there is no risk in this proposal.

Mr. Lockhart asked Ms. Ames what the EIS says about the catches of cowcod in the 20 to 30 fm range. Ms. Ames referenced Agenda Item B.3.a, Attachment 1, Tables 4-58 through 4-60.

Mr. Lockhart asked about California's authority to close access to this area if for some reason there is excessive cowcod catch. Ms. Vojkovich said the state's authority is no different than anything else; it's attached to the harvest guideline. Additionally, the catch information is consistent with the research distribution of cowcod, all indicates that catches are prevalent deeper than 50 fm. CDFG feels confident that the impacts have already been accounted for in all the projections.

Motion 45 carried as amended. Mr. Lockhart voted no.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 46) to adopt the WDFW preferred alternatives as described in Agenda Item B.3.b, WDFW Report. Ms. Culver spoke to her motion by referencing the analysis in the WDFW Report.

Motion 46 carried unanimously.

Mr. David Sones moved and Ms. Culver seconded a motion (Motion 47) to adopt the tribal management measures as shown in Agenda Item B.3.b, Supplemental Tribal Report. As noted earlier, for lingcod it should state 2011-2012, instead of 2009-2010.

Mr. Sones spoke to his motion, noting that the amounts reflect recent operations. Additionally, he noted the existing observer program and that all rockfish would be retained.

Mr. Lockhart noted that both the Quileute and Quinault have notified NMFS that they intend to fish for whiting in 2011.

Motion 47 carried unanimously.

## **C. Salmon Management**

### **C.1 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures**

#### **C.1.a Agenda Item Overview (06/12/10; 1 p.m.)**

Mr. Chuck Tracy presented the agenda item overview.

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

Mr. Tracy presented Agenda Item C.1.b, Supplemental SAC Report 2.

Dr. McIsaac asked if the flexibility provisions of the National Standard One Guidelines (NS1Gs) would allow application of an Annual Catch Limit (ACL) based solely on exploitation rate (F). Ms. Sheila Lynch replied the legislative history of ACLs focused on catch-based requirements, and the language of the Magnuson-Stevens Act (MSA) and NS1Gs describes ACLs in terms of catch. The language regarding flexibility in the NS1Gs refers to application of ACLs due to life history characteristics, but still requires numbers of fish to be the metric.

Mr. Tracy summarized Agenda Item C.1.b, SAC Report and presented Agenda Item C.1.b, Supplemental SAC PowerPoint.

Ms. Vojkovich asked for the basis of using  $0.5 S_{MSY}$  (maximum sustainable yield spawning escapement) for an overfished threshold. Mr. Tracy replied the NS1Gs recommend 0.5 MSY as an appropriate benchmark.

Ms. Vojkovich asked why the Salmon Amendment Committee (SAC) recommended using a geometric mean rather than an arithmetic mean for determining overfished and rebuilt status. Mr. Tracy replied that the geometric mean reduces the weight of a single high value, which is appropriate given that the distribution of abundances is bounded by zero on the low end but unbounded on the upper end.

Mr. Wolford asked if other factors other than  $0.5 S_{MSY}$  could be or were considered. Mr. Tracy replied they could be considered, but that the SAC had not developed other alternatives yet. Mr. Mohr added that the NS1Gs recommend 0.5 MSY as a default guideline unless that would not allow an overfished stock to rebuild within an acceptable time frame, in which case some value closer to MSY may be more appropriate. Due to the high productivity of salmon, however, a stock at 0.5 MSY would be able to rebuild within the 10 years recommended in the NS1Gs.

Dr. McIsaac asked if the 3-year geometric mean SDC basis was to account for age classes. Mr. Tracy replied it was just intended to account for potentially high temporal variation in stock abundance. Mr. Mohr added that a single year did not provide an adequate profile of the stock's reproductive potential.

Dr. McIsaac asked if the single-year SDC was based on the dominant age class for Chinook or on a blend. Mr. Tracy replied that it would be based on the spawner reduction rate, covering all potential spawners in a given year.

Ms. Culver asked if any of the Endangered Species Act (ESA) listed stocks would be classified as Ecosystem Components. Mr. Tracy replied no, that ESA stocks would be classified as in the fishery to facilitate ESA consultation.

Ms. Vojkovich asked if the spawning escapement-based ACL would meet the requirements of the NS1Gs. Ms. Lynch replied that it would require invoking the flexibility provision in the NS1Gs but would still be based on numbers of fish.

Ms. Culver asked if there were any advantage to the escapement-based ACL. Dr. Kope replied that spawning escapement could be monitored on a stock specific basis, whereas ocean catch could not.

Mr. Mallet asked if the catch-based ACL used a preseason abundance estimate. Mr. Tracy replied yes, in terms of developing annual management measures, but postseason evaluation would use updated abundance estimates, which are known with greater certainty. Mr. Mohr added that by removing the uncertainty associated with the preseason forecasts from the ACL evaluation, uncertainty only need be accounted for in the estimate of  $F_{MSY}$  (MSY exploitation rate), as was done in developing the tiered approach to setting ACLs.

Ms. Vojkovich asked what the relationship was between the spawning escapement values in the Sacramento fall Chinook conservation objective and the ACL reference points. Mr. Tracy replied that the conservation objective would establish the control rule by which the Council would manage fisheries on an annual basis; the ACL would just be used to evaluate whether fisheries were successfully managed to prevent overfishing. The SAC does recommend that as new information becomes available, conservation objectives should be reevaluated, which could change the control rule.

Ms. Culver asked how the postseason evaluation of the ACL would be incorporated into future management. Dr. Kope replied that if the ACL was exceeded more than once in four years the NS1Gs require reevaluation of the ACL framework, and in the case of salmon that would mean considering a larger buffer between  $F_{MSY}$  and  $F_{ABC}$ . Mr. Tracy added that that process would be addressed in the accountability measures, which the SAC had not fully developed.

Mr. Myer asked if the current control rules would functionally be annual catch targets, set well below the ABC. Mr. Mohr replied yes, although they have not been so identified.

Dr. McIsaac asked if a lead Council for salmon ACLs needed to be designated. Mr. Tracy replied the SAC had discussed the issue, and recommends the Pacific Council remain the lead Council for all FMP salmon stocks. Dr. Dygert added that NMFS had also consulted with the North Pacific Council and concurred with the SAC recommendation.

Dr. Petrosky presented Agenda Item C.1.b, Supplemental SSC Report.

Ms. Vojkovich asked why southern Oregon Chinook were in a stock complex if there was SDC available. Mr. Tracy replied that the stock complex was only relevant to setting ACL, not SDC, and since there was no estimate of  $F_{MSY}$  and no preseason forecast for that stock, it needed to be included in a complex with an appropriate indicator stock.

Mr. Tracy read into the record Agenda Item C.1.b, Supplemental SAS Report.

Mr. Williams asked what the basis was for the SAS recommendation on sector ACLs. Mr. Tracy replied the SAS was interested in alternatives that linked AM to Council area versus other fisheries to assure Council fisheries weren't accountable for management errors in other fisheries; the SAS was not interested in sectors within the Council area.

Ms. Culver asked if the SAS was interested in using sector ACLs as an accountability measure. Mr. Tracy replied that the SAS did not consider that possibility.

Mr. David Hillemeier (Yurok Tribe) noted the following:

- Despite being identified as a non-target stock in the ACL report, Klamath spring Chinook could have conservation objectives developed in the future and become a managed stock.
- The range of SDC overfished alternatives in the SAC report were too narrow, especially given that status quo criterion was listed as undefined, although NMFS policy on the current FMP criteria for an

overfishing concern constitutes overfished status. The Klamath basin has several independent Chinook populations that, given the alternatives for overfished SDC, could be well below  $0.5 S_{MSY}$  and below thresholds identified in Amendment 15 that would increase the risk of detrimental long-term genetic effects. Therefore, an aggregate  $0.5 S_{MSY}$  SDC would not provide adequate protection for those independent populations.

- The SAC should include overfished SDC alternatives that 1) reflect current NMFS policy; 2) have a 3-year geometric mean of 35,000 natural area adult spawners; 3) have 80 percent of  $S_{MSY}$ .
- Overfishing SDC should be linked to annual harvest rate objectives rather than a long-term average ( $F_{MSY}$ ).
- The SDC alternative for rebuilt status of a 3-year geometric mean greater than  $S_{MSY}$  was appropriate, but the SAC may want to consider another alternative such as three-of-four years above the conservation objective, as used in the rebuilding plan for Klamath River fall Chinook.
- Alternatives to the Amendment 15 *de minimis* fishing provision for Klamath fall Chinook should be developed that provide a more prescriptive exploitation rate structure as stock status declines.

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

None.

### **C.1.d Council Action: Adopt Preliminary Alternative for Public Review (06/12/10; 4:33 p.m.)**

Mr. Williams asked what issues were ready for Council guidance. Mr. Tracy replied that stock classification was the most important at this time because development of alternatives for the other issues was contingent upon knowing the range of alternatives for stock classification. The SDC and ACL framework issues were also taking shape, and any guidance on specific alternatives would be helpful.

Ms. Vojkovich moved (Motion 2) to allow the SAC to develop stock classification, status determination criteria, and ACL alternatives. For stock classification and application of the international exception, adopt the alternatives in Tables 5, 6, and 7 (Agenda Item C.1.b, SAC Report), and identify Alternative 2 as a preliminary preferred alternative for the purpose of developing alternatives for the other issues in Amendment 16. For status determination criteria, adopt the alternatives in Table 8 (Agenda Item C.1.b, SAC Report) with the following changes: Alternative 1 (status quo) assumes the NMFS interpretation of an overfishing concern equates to overfished status, and an additional alternative with MSST equal to 75 percent of  $S_{MSY}$ . For the ACL framework, continue to develop the alternatives in Table 9 (Agenda Item C.1.b, SAC Report). For accountability measures, continue to develop the alternatives identified in Agenda Item C.1.b, SAC Report. For *de minimis* fishing provisions, maintain the status quo alternative for Klamath River fall Chinook, add alternatives for Sacramento River fall Chinook, and develop alternatives for both stocks that require no fishing at an appropriate abundance level greater than zero. The tables referenced above should reflect the corrections identified by the SAC in Agenda Item C.1.b, Supplemental SAC Report 2. The SAC should also work with the SSC to provide adequate rationale and scientific basis for the tiered uncertainty levels used in the ACL framework alternatives.

Mr. Brizendine seconded the motion.

Mr. Wolford asked if the SDC alternative using minimum stock size threshold (MSST) equal to 75 percent of  $S_{MSY}$  would include both single and multi-year versions. Ms. Vojkovich replied yes.

Mr. Lockhart asked if the changes to classification Alternative 1 would require changes to the Salmon FMP. Ms. Vojkovich replied yes.

Ms. Vojkovich offered the following rationale for Motion 2: specifying use of current National Marine Fisheries Service (NMFS) policy in classification alternative 1 would provide a less ambiguous analysis, the 75 percent of  $S_{MSY}$  SDC alternatives would provide additional resolutions to the analysis, the F-based ACL alternative appeared not viable, the *de minimis* fishing provisions needed additional development and consideration of fishing effects at low stock abundance.

Mr. Wolford asked if the guidance for developing additional *de minimis* fishing provisions for Sacramento and Klamath fall Chinook was intended to use the same conceptual approach but not the same actual break points. Ms. Vojkovich replied yes, that the concept of a point where fishing mortality would cease would apply to both stocks, but that different stock levels may be appropriate.

Mr. Williams recommended the process allow flexibility to add *de minimis* fishing provisions for stocks like Oregon coast Chinook when sufficient information becomes available.

Motion 2 carried unanimously.

Ms. Culver directed the SAC to provide examples of forecasts for the catch- and spawning-based ACL frameworks that would be directly comparable.

Dr. McIsaac recommended the Council provide direction to the SAC to assume the Pacific Council would be the lead Council in development and implementation of ACLs for all Salmon FMP stocks. The Council concurred.

## **D. Habitat**

### **D.1 Current Habitat Issues (06/13/10; 8:07 a.m.)**

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

Mr. Kerry Griffin provided the agenda item overview.

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

Mr. Griffin read Agenda Item D.1.b, Supplemental HC Report.

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

None.

#### **D.1.d Public Comment**

None.

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

Mr. Anderson spoke in regard to the coho issue and the Strait of Juan de Fuca overfishing report. He explained WDFW's regulatory and land acquisition efforts to maintain and enhance freshwater habitat, including improving their hydraulic project approval program. He said he would be happy to report on the changes they are making to improve their effectiveness in compliance monitoring and other habitat programs. This could take place in June 2011.

Mr. Helvey said NMFS would like to delay adoption of the Reedsport wave energy letter for a couple of days so that the Northwest Region (NWR) staff can work with the Habitat Committee (HC) and Council staff to include consideration of some NWR changes to the letter.

Mr. Moore said he wanted to adopt and forward the Reedsport letter. He felt the project could have significant impacts on communities. He asked Mr. Helvey how the delay and input from the NWR might occur.

Dr. McIsaac said the NWR had a minor change to the letter. The Council could approve the letter with that potential change.

Mr. Moore moved (Motion 3) that the Council direct the Executive Director to send the comments of the HC to the Federal Energy Regulatory Commission (FERC) with any necessary editorial or technical changes. Ms. Lowman seconded the motion.

Mr. Moore said he appreciated NMFS' position and the motion includes editorial changes as necessary, which should provide enough leeway for the Executive Director to work with NMFS.

Ms. Lowman supported the motion. She noted that this will set the tone for future application processes.

Vice-Chairman Wolford said there are other items associated with wave energy projects, for example items in the Coastal Pelagic Species (CPS) SAFE document (F.1.a Attachment 1). He hopes the final letter would specifically reference these issues.

Motion 3 passed. Mr. Steve Williams abstained.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 4) to adopt Agenda Item D.1.a, Attachment 2, Habitat Committee Report on Western Strait of Juan de Fuca (WSJF) Coho Overfishing Concern; and to adopt the three recommendations in Agenda Item D.1.b, Supplemental HC Report as modified below:

1. ~~Support efforts of the~~ Request WDFW to provide an update on their efforts to improve hydraulic project approval (HPA), program specifically the need for increased effectiveness and compliance monitoring of issued permits in June of 2011.
2. Support achievement of Washington Department of Ecology (WDOE) Clean Water Act (CWA) Review milestones related to State of Washington Forest Practice program.
3. Support future habitat restoration efforts in the WSJF that address limiting factors of coho salmon productivity.

Motion 4 carried unanimously.

Vice Chairman Wolford noted the Council did not wish to discuss the Klamath letter at this time.

## **E. Highly Migratory Species Management**

### **E.1 Recommendations to International Fishery Management Organizations**

### **E.1.a Agenda Item Overview (06/13/10; 8:48 a.m.)**

Dr. Kit Dahl provided the agenda item overview.

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

Dr. Steve Stohs provided Agenda Item E.1.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item E.1.b, Supplemental HMSAS Report.

### **E.1.c Public Comment**

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

### **E.1.d Council Action: Approve Process and Recommendations for Input to the Northern Committee of the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission**

Several Council members questioned Mr. Helvey about recent Federal regulations needed to carry out U.S. obligation under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (75 FR 3335, January 21, 2010). Comments from the HMSAS noted that these regulations included a requirement on those fishing in the Convention Area (west of 150° W longitude in the North Pacific) to operate VMS at all times, even when not operating in the Convention Area. This imposes a cost burden on west coast vessels that may occasionally fish in the Convention Area but usually fish in the Eastern Pacific. Mr. Helvey explained the regulatory and enforcement issues, including the fact that the NMFS Pacific Islands Regional Office promulgated these regulations.

Ms. Culver asked Mr. Helvey if data were available to allow the HMSMT to examine fishing effort levels of nations fishing on North Pacific albacore. In response, Dr. Sakagawa said that a new stock assessment will be available in 2011 and could contain information related to that issue. He recommended that the management process at the RFMO level would be the best forum for addressing the issue of defining fishing effort. The Council should engage at that level. Ms. Culver followed up by asking whether this issue should be advanced at the 2010 WCPFC Northern Committee meeting or in the context of the 2011 stock assessment. Dr. Sakagawa recommended the latter, clarifying that the stock assessment estimates fishing effort based on catch and doesn't get data directly on fishing effort. He said the U.S. should request other countries to provide information on fishing effort levels. In response to a question from Ms. Vojkovich, Dr. Dahl provided background information on the issue.

Ms. Culver moved (Motion 5), seconded by Mr. Myer, to adopt the recommendations on page 2 of the Supplemental HMSMT Report. Mr. Moore moved, seconded by Mr. Crabbe, to amend the main motion (Amendment 1 to Motion 5) to drop the fifth HMSMT recommendation relative to creating an ad-hoc committee to review the results of the Albacore Working Group and other HMS issues that arise as a result of the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC) meeting and 2) add the recommendation from the Supplemental HMSAS Report requesting a reevaluation of the VMS regulations previously discussed.

Ms. Vojkovich moved, seconded by Mr. Brizendine, to amend the main motion (Amendment 2 to Motion 5) to 1) to revise the recommendation on bluefin tuna so that it specifically references juvenile bluefin tuna mortality, and 2) revise the recommendation relative to compliance with IATTC management measures to add "and WCPFC management measures" and "like the IUU listing process and IUU fishing

activities.” Both amendments and the main motion passed unanimously on a voice vote. The amended motion reads:

1. Postpone bigeye and yellowfin tuna recommendations until after the updated stock assessments are released.
2. The U.S. delegation to the IATTC should develop a proposal for a TAC in the purse seine fishery.
3. The U.S. delegation to the Northern Committee should propose a more effective and comprehensive bluefin tuna conservation measure in the WCPFC, and specifically to address juvenile bluefin mortality.
4. The U.S. should pursue participation in the IATTC consultation on bluefin tuna (held August 30, 2010 in La Jolla) and move forward with a proposal for a bluefin tuna conservation measure in the IATTC.
5. The Council supports proposals that would increase compliance with IATTC and WCPFC management measures, like the IUU listing process and IUU fishing activities.
6. The U.S. delegations to the IATTC and WCPFC should advocate for more comprehensive data reporting and collection by members of the IATTC and WCPFC.
7. NMFS should reevaluate the VMS requirements for vessels endorsed to fish in the WCPFC Convention Area to reduce compliance costs related to continuous, frequent transmission of position reports.

Ms. Vojkovich requested that the letter with the recommendations from the above motion also emphasize the Council’s role in U.S. delegations to RFMOs. This sparked a discussion of how this message can be broadcast both through correspondence and Council participation in the delegations. Council members concurred with Ms. Vojkovich’s recommendation.

Dr. McIsaac said that formation of the previously proposed ad hoc committee should be discussed under Agenda Item G.3, and the Council concurred.

## **E.2 Fishery Management Plan Amendment 2, Annual Catch Limits and Accountability Measures**

### **E.2.a Agenda Item Overview (06/13/10; 10:45 a.m.)**

Dr. Dahl provided the agenda item overview.

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

Dr. Steve Stohs first gave a presentation (Agenda Item E.2.b, Supplemental HMSMT PowerPoint) and then provided Agenda Item E.2.b, Supplemental HMSMT Report.

Mr. Fricke provided Agenda Item E.2.b, Supplemental HMSAS Report. Dr. Martin Dorn provided Agenda Item E.2.b, Supplemental SSC Report.

### **E.2.c Public Comment (06/13/10; 1:05 p.m.)**

Mr. Geoff Shester, Oceana, Monterey, CA

### **E.2.d Council Action: Adopt Final Amendment (06/13/10; 1:06 p.m.)**

Ms. Culver expressed concern that Pacific bonito would be left to state management (not included in the HMS FMP) while opah is proposed to be added to the FMP as a management unit species, yet neither of these species is designated an HMS under Annex I of UN Law of the Sea Convention or the MSA, which

is the primary criterion for inclusion of species in the FMP. For this reason she recommended treating opah similarly to Pacific bonito.

Mr. Moore sought confirmation that not including these species in the FMP does not raise legal issues. Mr. Feder concurred. Ms. Culver followed up by asking whether lack of inclusion would preclude monitoring of catch in federally-managed fisheries. Mr. Feder said it would not and in fact such monitoring should occur in order to determine whether Federal management is indeed needed at some point.

Ms. Yaremko moved (motion 6), seconded by Mr. Brizendine, to select a preferred alternative based on Alternative 5 described in the Supplemental HMSMT Report. The motion had the following elements:

- Classification of stocks:
  - 11 management unit species (resulting from reclassifying bigeye and pelagic thresher as ecosystem component species)
  - Designate the eight EC species identified by the HMSMT based on the selection criteria described in the report; specifically, Pacific bonito is not included in the FMP as a management unit or EC species.
- The international exception is applied to all managed species in the FMP.
- Designation of the primary FMP for the purpose of determining SDC would be done at the stock level in consultation with WPFMC with flexibility to change based on new information.
- Specification of MSY and SDC:
  - MSY or MSY proxies estimated using methods consistent with data availability category
    - Assessed stocks: derive MSY (or proxy) based estimates from assessment
    - Non-assessed stocks:
      - If productivity or abundance info. available – use index of abundance or productivity indicators with catch to develop MSY or proxy
      - If productivity or abundance info. NOT available – use catch-only methods such as DCAC, DB-SRA or alternative catch series to develop proxy
  - MSY and SDCs will be reported in the SAFE
- Specification of OY: Flexible framework to determine OY on a stock basis based on criteria in NS1 Guidelines, to be considered and adopted on a case by case basis via the biennial management measures process, as new information becomes available. OYs are reported in the SAFE.
- ABCs are not specified, consistent with the international exception
- ACLs are not specified, consistent with the international exception, but the Council is free to specify them at any time; the current harvest guidelines in the FMP are retained (see amendment to the motion discussed below)
- Accountability measures are the measures and processes as described in Chapters 5 and 6 in the FMP.

Ms. Yaremko discussed the rationale for the above elements of the FMP amendment. In relation to stock classification, the HMSMT had considered the issue carefully and she agreed with their recommendations based on standardized approach to the issue. Application of the international exception is consistent with the WPFMC approach, it could promote cooperation on management of common thresher shark, and does not preclude setting ACLs if the Council so determines. She then discussed state management of Pacific bonito in support of the rationale for not including this species in the HMS FMP.

Based on a question about the motion, Ms. Culver moved, seconded by Rod Moore, an amendment (Amendment 1 to Motion 6) to retain the harvest guidelines for common thresher shark and shortfin mako shark currently specified in the FMP and Federal regulations. The amendment carried unanimously.

Dr. McIsaac asked whether the provision related to designation of the primary FMP for the determination of MSY and SDC identifies which FMP is primary for the HMS FMP management unit species. Dr. Dahl said the FMP would not specify the primary FMP for each stock, instead it would lay out the process by which the WPFMC and PFMC would agree on designations.

Ms. Culver reconfirmed that under the motion opah would be a state-managed species (not included in the HMS FMP).

Mr. Feder said the MSA requires that OY and MSY be specified in the FMP. Currently, the HMS FMP includes numerical estimates of these values and he does not believe that such numerical estimates can only be specified in the annual SAFE report. Such a general framework without inclusion of estimates in the FMP could make it difficult for NMFS to approve the amendment. At a minimum, the FMP should include methodologies for specifying these values and describe in detail a process for re-specifying such estimates that includes a public process and review and approval by NMFS.

Mr. Moore asked Dr. Dahl about the current process for establishing ABC and OY described in the FMP. Dr. Dahl replied that the FMP doesn't specify such a process. Mr. Moore said that the HMS FMP is the only PFMC FMP that includes estimates of MSY and OY and asked why the HMS FMP can't simply describe the methodology for making these estimates. Mr. Feder said it may not be absolutely necessary for the FMP to contain the numerical estimates as a matter of law, but the framework must include a public process and review and approval by NMFS of Council-recommended changes to the estimates.

Mr. Williams asked Mr. Feder if the description of the process for modifying the estimates on page 2 of the HMSMT Report is sufficient. Mr. Feder said he was not completely familiar with the process as described in the report. Mr. Williams asked Dr. Dahl whether the process as described addresses Mr. Feder's concerns. He replied that he thinks it does. Mr. Moore referenced the proposed amendment language that includes a description of the methodology for specifying MSY and OY numerical values.

Ms. Culver clarified that the Council is proposing that the methodologies would be specified in the FMP, but the numerical estimates resulting from those methodologies would be periodically reviewed by the Council and reported in the SAFE.

Mr. Feder sought further clarification of the motion with respect to the proposed amendment language. Dr. Dahl laid out two options. The Council could give discretion to staff to make additional modifications to the language to capture the Council discussion and motion and conclude action on the amendment at this meeting or ask that revised language be brought back to the Council at the September meeting for final action.

Ms. Culver reiterated her previous characterization of how MSY and OY estimates would be handled under the preferred alternative as summarized in Motion 6. The Council could vote on that and then entertain a second motion specific to the FMP amendment language as presented in Agenda Item E.2.a Attachment 2 and any modifications to it to address Motion 6 and Council floor discussion.

Ms. Lowman asked whether the states actively manage opah, another species with commercial landings proposed to not be included in the HMS FMP. Ms. Yrmeko described monitoring of the species by California. Mr. Moore noted that opah is incidentally caught in the California drift gillnet fishery.

Motion 6 as amended carried unanimously.

Mr. Feder asked for clarification of how Motion 6 handled specification of MSY and OY, reiterating his previous concern.

Ms. Culver moved (Motion 7), seconded by Mr. Moore, to have the Council adopt Amendment 2 to the FMP as specified in Agenda Item E.2.a, Attachment 2 as modified by the previous motion. Specifically, the methodology for calculating MSY and OY would remain in the FMP as described and the numerical values that result from those calculations would come to the Council for approval on an annual basis through a public process including the advisory committees. In response to a question, Ms. Culver affirmed that the Council would consider new estimates annually to be reported in the SAFE.

Mr. Feder reiterated his concern (described above).

Ms. Culver responded to Mr. Feder's concern by reiterating the process described in her motion, noting that any change in the methodology for calculating the numerical values would require an FMP amendment.

In response to a question from Dr. McIsaac, Dr. Dahl said the FMP and Federal regulations describe a public, Council process for adoption of the annual SAFE document.

Motion 7 carried unanimously.

**Note: The Council reopened this agenda item on Monday, June 14, 2010 at 9:42 a.m.**

Dr. McIsaac explained why the agenda item had to be reopened. It is related to the concern raised by Mr. Feder that NMFS (on behalf of the Secretary) have an approval role in the Council process for changing the numerical estimates of MSY and OY.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 9) to reconsider Motion 7. Motion 9 carried unanimously.

Ms. Culver moved (Motion 10), seconded by Ms. Yaremko, to adopt the following:

1. Approve the Highly Migratory Species Management Team's recommendations in Agenda Item E.2.b, Supplemental HMSMT Report, which includes specifying maximum sustainable yield (MSY) or proxies, optimum yield (OY), status determination criteria (SDCs), and if required, overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs) for each management unit species during the HMS biennial process for management measures;
2. Retain the current methods for specifying MSY, OY, SDCs, OFLs, ABCs, and ACLs and the current values for MSY, OY, and harvest guidelines, as amended by Amendment 2, as displayed in Table 4-3 in the proposed Amendment 2 text (Agenda Item E.2.a, Attachment 2) on p. 21. These methods and values will remain in place in the fishery management plan (FMP) until superseded;
3. Specify that the methods for calculating MSY, OY, SDCs, OFLs, ABCs, and ACLs would remain in the FMP, which would require a plan amendment to change, consistent with the requirements in the Magnuson-Stevens Act in Section 303(a)(3) Contents of FMPs and Required Provisions; and
4. Provide a framework mechanism in Amendment 2 to allow for changes to the numerical values for MSY, OY, SDCs, OFLs, ABCs, and ACLs specified in the FMP through the biennial process, which would require rulemaking. The intent would be to consider and recommend these changes through the biennial process and display the resulting values, once approved by the Secretary of

Commerce, in the annual SAFE document, similar to the approach taken with the groundfish FMP.

Mr. Feder said the motion addresses the concerns he had previously raised.

Ms. Culver clarified that the current MSY and OY estimates are retained in the FMP until modified by the Council through the process described in Motion 10 (once the FMP amendment is approved by NMFS).

Dr. McIsaac asked whether Motion 10 was a substitute or supplement to Motion 7. Ms. Culver said it supplemented Motion 7 by providing additional clarification and addressing the concerns about the proposed process previously raised.

Motion 10 carried unanimously.

The Council moved back to Agenda Item B.3.

### **E.3 Changes to Routine Management Measures for 2011-2012 (06/13/10; 1:55 p.m.)**

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

Dr. Dahl provided the agenda item overview.

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

Dr. Stohs provided Agenda Item E.3.b, Supplemental HMSMT Report. Ms. Culver reviewed Agenda Item E.3.b, Supplemental WDFW Report.

#### **E.3.c Public Comment**

None.

#### **E.3.d Council Action: Initial Identification of Preliminary Management Changes for Further Consideration**

In response to a question from Mr. Helvey, Ms. Culver said that charter boats account for most of the recreational catch and the alternatives that would be brought forward at the September meeting would be based on data on catches from these vessels.

Dr. Dahl confirmed that the Council adopted by consensus the WDFW proposal contained in Agenda Item E.3.b, Supplemental WDFW Report.

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

### **F.1 Pacific Mackerel Management for 2010-2011 (06/15/10; 1:35 p.m.)**

#### **F.1.a Agenda Overview**

Mr. Kerry Griffin provided the agenda item overview.

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

Dr. Martin Dorn provided Agenda Item F.1.b, Supplemental SSC Report. He noted that no update was conducted in 2010, but a full assessment is scheduled for 2011. He also noted that the 2009 stock assessment indicated that the mackerel population had begun to level off, following an increase from very low abundance. The 2009-2010 landings were relatively low, despite El Nino conditions, which typically increase the availability of Pacific mackerel. Chief source of uncertainty is the catch per unit of effort (CPUE) log book index of relative abundance. SSC recommended that the 2009-10 harvest levels would be appropriate for 2010-11 as well.

Ms. Culver asked whether the SSC is “recommending” the ABC or just noting its appropriateness. Dr. Dorn replied that the “old” ABC is equivalent to the new OFL. Ms. Culver asked if the SSC would oppose a 3,000 mt incidental harvest, which is what the CPSMT recommended. Dr. Dorn replied that the SSC would not object, and does not make harvest guideline recommendations.

Mr. Greg Krutzikowsky provided Agenda Item F.1.b, Supplemental CPSMT Report. Mr. Moore clarified that the CPSMT did not object to a harvest guideline of 16,000 mt, but wanted to make sure that an incidental allowance came out of that 16,000 mt. Mr. Krutzikowsky confirmed that was the CPSMT’s intent.

Ms. Yaremko asked whether recent incidental catch has exceeded 3,000 mt. Mr. Krutzikowsky said no, and that any incidental catch had been less than 1,000 mt.

Mr. Wolford asked whether there would be enough biological data to support the 2011 stock assessment. Mr. Krutzikowsky replied that yes, there would likely be enough.

Mr. Mike Okoniewski provided Agenda Item F.1.b, Supplemental CPSAS Report. Mr. Moore asked whether any unused incidental allowance would be rolled into the directed harvest. Mr. Okoniewski said that no, it would not roll into the directed fishery. He noted that it would be important to leave a buffer, to ensure that other fisheries (e.g., squid) are not prematurely shut down because the mackerel landings cap was reached.

Ms. Yaremko asked for clarification about his statement about a premature closing of the fishery. Mr. Okoniewski clarified that the primary intent of the CPSAS’ recommendation of an 8,000 mt incidental set-aside was to avoid closure of non-mackerel fisheries, such as market squid.

Mr. Griffin read Agenda Item F.1.b, Supplemental HC Report.

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

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA  
Mr. Geoff Shester, Oceana, Monterey, CA

#### **F.1.d Council Action: Approve Stock Assessment and Essential Fish Habitat review; Harvest Guideline; and Management Measures**

Ms. Yaremko moved (Motion 24) to reaffirm items #1 and #2 as specified in Agenda Item F.1.b, Supplemental CPSMT Report; page 1 for 2010-2011 fishing. Mr. Brizendine seconded the motion.

That report included the following:

1) Establish an acceptable biological catch (ABC) of 55,408 mt and a harvest guideline (HG) for the directed fishery of 10,000 mt, which includes an incidental set-aside of 2,000 mt for incidental catch in non-directed fisheries.

2) Should the directed fishery attain landings of 8,000 mt, the Council recommends that National Marine Fisheries Service (NMFS) close the directed fishery and revert to an incidental-catch-only fishery with a 45 percent incidental landing allowance when Pacific mackerel are landed with other coastal pelagic species (CPS), with the exception that up to 1 mt of Pacific mackerel could be landed without landing any other CPS.

Mr. David Crabbe move to amend the motion (amendment #1 to Motion 24): In item one, change the 2,000 mt incidental catch to 3,000 mt incidental catch. Mr. Dale Myer seconded the amendment.

Mr. Moore said you are raising the incidental take, but are you maintaining the HG at 10,000 mt for a directed fishery of 7,000 mt with a set-aside of 3,000 mt? Mr. Crabbe said the intent is to raise the HG to 11,000 mt.

Mr. Moore moved a substitute amendment (amendment #2 to Motion 24) to change the HG to 11,000 mt so there is a directed fishery of 8,000 mt with a set-aside of 3,000 mt. Mr. Wolford seconded the amendment.

Mr. Helvey reminded the Council that we treated the incidental catch as only applying to CPS fisheries; not sure what other fisheries besides the CPS fisheries would incidentally catch mackerel.

Mr. Crabbe said he raised the incidental catch to 3,000 mt because the CPSAS recommended no less than 3,000 mt. The quota could be taken very easily and this would provide a larger buffer for the other incidental fisheries. We are still at a very conservative harvest guideline, based on the 55,000 mt ABC.

Mr. Helvey said he had concerns that there are other fisheries besides the CPS fisheries that could pick up mackerel. The motion would be that all mackerel would be counted.

Ms. Culver stated the harvest guideline pertains to vessels using CPS gear. Therefore, if incidental catches occur with vessels fishing with non-CPS gear, that would be tracked, but NOT subtracted from the 3,000 mt set-aside.

Mr. Feder asked whether meeting the set-aside would close down only CPS fisheries, or apply to all fisheries.

Amendment #2 to Motion 24 carried unanimously.

Dr. McIsaac read the motion from last year which stated “CPS fisheries” and not “non-directed fisheries.”

Mr. Moore moved to amend the motion (Amendment #3 to Motion 24) to strike “non-directed” and insert “non-directed CPS fisheries.” Ms. Culver seconded the motion.

Amendment #3 to Motion 24 was carried unanimously. Motion 24 as amended carried unanimously.

Dr. McIsaac noted that the motion did not address CPS essential fish habitat (EFH) issues, and suggested that Agenda Item G.4 (future agenda planning) would be an appropriate time to schedule CPS EFH actions.

**F.2 Fishery Management Plan Amendment 13, Annual Catch Limits and Accountability Measures**

**F.2.a Agenda Item Overview (06/16/10; 3:13 p.m.)**

Mr. Mike Burner provided the agenda item overview.

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

Dr. Dorn provided Agenda Item F.2.b, Supplemental SSC Report. Mr. Greg Krutzikowsky provided Agenda Item F.2.b, Supplemental CPSMT Report. Mr. Mike Okoniewski provided Agenda Item F.2.b, Supplemental CPSAS Report. Mr. Tim Roth provided Agenda Item F.2.b, Supplemental HC Report. Mr. David Sones provided Agenda Item F.2.b, Supplemental Tribal Report.

**F.2.c Public Comment (06/15/10; 4:23 p.m.)**

Ms. Dianne Pleschner-Steele, California Wetfish Producers Association, Buellton, CA  
 Mr. Ken Hinman, National Coalition for Marine Conservation, Leesburg, VA  
 Mr. Whit Sheard, Oceana, Monterey, CA  
 Mr. Ben Enticknap, Oceana, Portland, OR

**F.2.d Council Action: Adopt Final Amendment**

Ms. Yaremko moved and Mr. Brizendine seconded a motion (Motion 25) to adopt the following: Working from Agenda Item F.2.b, Supplemental CPSMT Report, June 2010

- Stock Classifications, Alternative 1, All species currently in the CPS FMP, including krill are included “in the fishery” in their existing category and no EC species are established.
- Status Determination Criteria, Alternative 2, Maintain existing SDCs for CPS FMP stocks and develop an MSY proxy for the northern subpopulation of Northern anchovy.
- Harvest Control Rules for Actively Managed Species, Alternative 3 Scientific Uncertainty Buffer, Modify the existing harvest control rules to include a buffer or reduction in ABC relative to OFL to account for scientific uncertainty.

OFL	BIOMASS * F <sub>MSY</sub> * DISTRIBUTION
ABC	BIOMASS * BUFFER * F <sub>MSY</sub> * DISTRIBUTION
ACL	LESS THAN OR EQUAL TO ABC
HG	(BIOMASS - CUTOFF) * FRACTION * DISTRIBUTION.
ACT	EQUAL TO HG OR ACL, WHICHEVER VALUE IS LESS

- Harvest Control Rules for Monitored Finfish and Squid Species, Alternative 1, Maintain the default harvest control rules as modified to specify the new management reference points. ACLs would be specified for multiple years until such time as the species becomes actively managed or new scientific information becomes available.

OFL	STOCK SPECIFIC MSY PROXY
ABC	OFL * 0.25
ACL	Equal to ABC or reduced by OY considerations.

- Sector-Specific ACLs, Alternative 4, Add sector-specific ACLs to the FMP framework as a management tool and assess their applicability on an annual basis.

- AM and ACTs, Alternative 3 (modified), Develop AMs as required and ACTs as needed for actively managed and monitored stocks.

Ms. Yaremko spoke to her motion. Regarding stock classifications, Ms. Yaremko agreed with the rationale provided by the CPSMT and felt that the primary incidental or bycatch species in the CPS fisheries are other CPS FMP species and that there is an active and ongoing monitoring and reporting mechanism for non-target CPS catch. Krill are included “in the fishery” and not classified as an EC species as a means of maintaining the current harvest prohibitions. She and the CPSMT have noted that the “Response to Comments” (Section V) of the final rule for the NS1 guidelines (74FR3178) states that, if the intent is to prohibit directed fishing and retention throughout the exclusive economic zone (EEZ) for which a Council has jurisdiction, then the stock would, most likely, be identified in an FMP as “in the fishery” rather than as an “ecosystem component of one particular FMP.” Regarding scientific uncertainty buffers in CPS harvest control rules, Ms. Yaremko cited the CPSMT recommendations and noted that although the analyses demonstrated the conservative nature of the existing harvest policies, the CPSMT and the SSC have made a compelling argument that the control rules should be modified to allow the consideration of an additional buffer to account for scientific uncertainty.

Ms. Culver moved and Mr. Cedergreen seconded an amendment to the motion (Amendment #1 to Motion 25) to adopt the following written motion:

Relative to stock classification considerations, I move the Council adopt Alternative 3 to add additional forage species to the coastal pelagic species (CPS) fishery management plan (FMP) as ecosystem component species. Specifically, add Pacific herring (*Clupea pallasii*) and Jacksmelt (*Atherinopsis californiensis*).

The intent would be to monitor the catches of these species and report catch estimates in the annual SAFE report, but to not develop status determination criteria or management measures for these stocks at this time.

Ms. Culver spoke to the CPSMT analysis of the important forage species and their catches. Specifically, for Pacific herring and jacksmelt there have been considerable incidental landings (~>5mt) over the last ten years. She also noted that in early action this week, the Council used a threshold of 1 mt to identify EC species in the HMS FMP and she felt that, based on the CPSMT analysis, this amendment to the motion is in keeping with the Council intent under HMS Amendment 2. Ms. Culver also believes that Pacific herring and jacksmelt are important forage for predators in the EEZ including Council-managed salmon and key groundfish stocks and, therefore, they should be managed in a manner that balances their contributions to the ecosystem as well as fisheries. This amendment to the main motion is consistent with the NS1 guidelines that recommend the consideration of ecosystem component (EC) species and forage species to further protect the ecosystem. It is also consistent with SSC and HC recommendations to include additional EC species.

Ms. Culver clarified that she is not recommending additional management measures or reporting requirements, but she would like to highlight and closely monitor these two species because of their catch levels in CPS fisheries.

Mr. Wolford spoke in favor of adding additional forage species as EC species and asked why the amendment to the motion does not include all of the species listed in Table 4.1-1 on page 17 of the draft EA (Agenda Item F.2.a, Attachment 1). Ms. Culver said that she is not opposed to adding additional EC species, but in crafting her amendment she reviewed the CPSMT analysis in the draft EA and applied the criteria (catch greater than 1 mt) the Council employed with HMS FMP Amendment 2 when including Pacific herring and jacksmelt.

Ms. Yaremko reiterated her support for the SSC and CPSMT findings that substantial incidental landings in CPS fisheries are limited to non-target CPS that are already in the FMP and that given the volume of targeted CPS landings she did not feel that catches of 6 mt of jacksmelt represented substantial catch. Ms. Yaremko noted that the Pacific herring are a state-managed species in California under a limited permit program. Additionally, CDFG monitors that stock annually and implements time and area closures to limit the fishery, and California is in the process of reviewing Pacific herring management through the development of a state FMP. Regarding jacksmelt and other smelt species, she noted that some are state-managed and the target of near-shore recreational fisheries and consequently it is unclear what additional Federal CPS fishery management needs exist given the relatively low catch numbers that are currently monitored.

Mr. Helvey said he hears arguments for and against adding EC species and noted that the Council has not developed a clear process for identifying EC species nor has there been a thorough examination of management of these species outside the Federal arena. He noted that the Council is in the process of developing an Ecosystem FMP (EFMP) and suggested that that process may be an appropriate venue for considering forage species and the corresponding ecological considerations. He said he would be voting against the amendment.

Ms. Culver stressed that Washington also manages Pacific herring in state waters and that Pacific herring are caught in Federal waters off Washington. She stated that nothing in her amendment to the motion is intended to supersede state-management of these species. Ms. Culver also clarified that the criteria the Council used for EC species under the HMS FMP was catch greater than 1 mt and less than 5 mt and the CPS catch of these two species exceeds 5 mt. Additionally, given the relatively small size of these forage species, 1 mt represents far more individual fish than many of the species considered under HMS.

Mr. Wolford felt that the EFMP is probably the ultimate home for a complete list of forage species, but he is uncomfortable assuming such given the early stages that the EFMP is in and he has concerns that these important species may end up outside all of our FMPs. He said that although some of the forage species are subject to state management, he was torn on this issue and is glad to see that the CPSAS and CPSMT recognize the importance of these fish and have recommended their inclusion in the EFMP.

Mr. Burner said that the Ecosystem Plan Development Team (EPDT) and the Ecosystem Advisory Subpanel (EAS) have been tasked with discussing the issue of forage and management unit species within the EFMP and will be reporting to the Council at the upcoming September meeting. He noted that there are workload considerations to adding EC species to the CPS FMP and that the EPDT has strong representation with adequate expertise to review forage species and their ecological role. There may be difficulties and inefficiencies in having two separate teams addressing the same issue.

Ms. Culver clarified for Mr. Moore that her amendment would simply include Alternative 3 to the main motion, thus adding EC species to the CPS FMP while preserving the stock classifications of Alternative 1. The intent of the amendment to the motion is not to prescribe a method for adding more species in the future or to develop SDCs or management measures for these species at this time. In the future, such management actions would only be warranted if the Council elevates species to active management.

Mr. Williams noted that the development of the EFMP will be complex with many issues to consider when assigning species to it and he confirmed with Mr. Burner that FMP amendments would likely be necessary to move species from the CPS FMP to the EFMP.

Mr. Wolford reiterated the importance of these forage species and the need for greater consideration of their ecological role, but he also is interested in moving the EFMP forward and he can foresee some

inefficiencies in addressing forage issues twice. He voiced support for the amendment to the main motion.

Mr. Roth noted that the HC is very interested in moving the EFMP forward. He and Ms. Lowman both felt that including these two species is a good start to expanding forage considerations and both were in support of the amendment to the main motion.

A roll call vote was taken for Amendment #1 to Motion 25. Voting no: Crabbe, Yaremko, Helvey (10 yes, 3 no). Amendment #1 to Motion 25 carried.

Ms. Culver moved and Mr. Cedergreen seconded an amendment (Amendment #2 to Motion 25) to adopt the following:

Relative to status determination criteria, I move the Council add the following language to the appropriate section within the coastal pelagic species (CPS) fishery management plan (FMP): The Council will consider ecological factors in developing status determination criteria, ACLs, and ACTs for CPS.

Ms. Culver stated that this language is very similar to the language the Council adopted earlier in the week relative to Amendment 23 to the Groundfish FMP, and is in keeping with testimony in support of considering ecological factors. She noted that a list of ecological factors was presented to the Council under public comment, but this amendment to the main motion does not add any specific factors to the CPS FMP, it simply states that the Council will take ecological factors into consideration.

Mr. Tim Roth spoke in strong support for Amendment #2 noting that the HC has been stressing importance of these factors in the process.

Amendment #2 to Motion 25 carried unanimously. Motion 25 as amended twice carried unanimously.

## **G. Administrative Matters**

### **G.1 Approval of Council Meeting Minutes**

#### **G.1.a Council Member Review and Comments**

Chairman Ortmann referred Council members to Agenda Item G.1.a, Supplemental Attachment 1 which contained the April 2009 Council meeting minutes.

#### **G.1.b Council Action: Approve September 2009 Council Meeting Minutes**

Mr. Moore moved and Mr. Wolford seconded a motion to approve the September 2009 Council Meeting Minutes as shown in Agenda Item G.1.b, Supplemental Meeting minutes, with the following correction:

On page 26, under SSC Report in the third paragraph, where it says “Mr. Wolford asked about CV-Extra,” Mr. Wolford was asking about CVs as in “coefficient of variation.”

Because Council members had not had time to fully review the supplemental minutes, the motion was withdrawn. The September 2009 minutes will be approved at the September 2010 meeting.

### **G.2 Fiscal Matters**

**G.2.a Agenda Item Overview (06/17/2010; 5:39 p.m.)**

Dr. John Coon provided the agenda item overview.

**G.2.b Budget Committee Report**

Mr. Jerry Mallet provided Agenda Item G.2.b, Supplemental Budget Committee Report. He also reported that the Budget Committee had discussed the status of expenditures in the Council compensation category and had asked staff to monitor it closely. There had also been some discussion of the cost of a second vice chair which was about \$10,000 annually. He noted the 2010 budget was sufficient to cover that cost.

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

None.

**G.2.d Public Comment**

None.

**G.2.e Council Action: Consider Budget Committee Recommendations**

Mr. Moore moved and Mr. Mallet seconded a motion (Motion 48) to adopt a CY 2010 budget of \$4,971,490 (as provided in the Budget Committee recommendations in Agenda Item G.2.b, Supplemental Budget Committee Report) and to have Council staff monitor expenses and report on any needed adjustments in September.

Motion 48 carried unanimously.

**G.3 Membership Appointments and Council Operating Procedures**

**G.3.a Agenda Item Overview (06/17/2010; 5:49 p.m.)**

Dr. Coon summarized the information and required actions as presented in the situation summary, including Agenda Item G.3.a, Supplemental Attachment 1.

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

None.

**G.3.c Public Comment**

None.

**G.3.d Council Action: Elect New Council Chair and Vice Chairs, Consider Changes to Council Operating Procedures and Advisory Body Appointments**

Mr. Mallet moved and Mr. Moore seconded a motion (Motion 49) to appoint Dr. Richard Scully to the Idaho Fish and Game (IDFG) position on the Ecosystem Plan Development Team. Motion 49 carried unanimously.

Mr. Sones moved and Ms. Culver seconded a motion (Motion 50) to appoint Mr. Charles (Sonny) Peterson to the Tribal Fisher position on the GAP, replacing Mr. Roger Bain. Motion 50 carried unanimously. Mr. Sones moved and Ms. Culver seconded a motion (Motion 51) to eliminate the Tribal At-Large position on the Ecosystem Advisory Supanel (EAS) and maintain the current vacant tribal position on the Ecosystem Plan Development Team (EPDT), which may be filled at an appropriate time in the future. Motion 51 carried unanimously.

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 52) to appoint Ms. Angelika Hagen-Breaux to the WDFW position on the Model Evaluation Workgroup (MEW). Motion 52 carried unanimously.

Mr. Lockhart moved and Mr. Moore seconded a motion (Motion 53) to appoint Mr. Sean Matson to a NMFS NWR position on the GMT, replacing Ms. Sarah Williams. Motion 53 carried unanimously. Mr. Lockhart moved and Mr. Sones seconded a motion (Motion 54) to appoint Ms. Heidi Hermsmeyer to the NMFS SWR position on the HMSMT, replacing Mr. Lyle Enriquez. Motion 54 carried unanimously.

Mr. Cedergreen moved and Mr. Wolford seconded a motion (Motion 55) to establish the ad hoc Tule Chinook Workgroup to explore abundance-based approaches to setting allowable fishing rates in the long-term to protect Lower Columbia River (LCR) tule Chinook as described in Agenda Item G.3.a, Supplemental Attachment 1. Motion 55 carried unanimously.

Chairman Ortmann appointed Dr. Geoff Shester, Oceana, to replace Mr. Santi Roberts on the Ad Hoc Groundfish Essential Fish Habitat Review Committee.

Ms. Vojkkovich moved and Mr. Brizendine seconded a motion (Motion 56) to appoint Mr. Dan Wolford to the first Council Vice Chair position for the August 11, 2010 – August 10, 2011 term. Motion 56 carried unanimously.

Mr. Steve Williams moved and Mr. Mallet seconded a motion (Motion 57) to appoint Ms. Dorothy Lowman to the second Council Vice Chair position for the August 11, 2010 – August 10, 2011 term. Motion 57 carried unanimously.

Ms. Culver moved and Mr. Moore seconded a motion (Motion 58) to appoint Mr. Mark Cedergreen to Council Chair for the August 11, 2010- August 10, 2011 term. Motion 58 carried unanimously.

#### **G.4 Future Council Meeting Agenda and Workload Planning (06/17/10; 6:04 p.m.)**

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

Dr. Don McIsaac provided the agenda item overview—referring to Agenda Items G.4.a, Supplemental Attachments 3 and 4. He summarized the changes that had been made from Attachments 1 and 2 which were primarily the postponing of the white paper for swordfish and the addition of a STAR Panel and Methodology Terms of Reference for CPS and the five year EFH review for CPS.

##### **G.4.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Coon read Agenda Item G.4.b, Supplemental CPSMT Report and Agenda Item G.4.b, Supplemental CPSAS Report. Mr. Tim Roth read Agenda Item G.4.b, Supplemental HC Report. Dr. Coon noted that the CPSMT, CPSAS, and HC were all supportive of an agenda item for the CPS essential fish habitat (EFH) review in November; although it did not make it into their statements.

#### **G.4.c Public Comment**

Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA  
Mr. Ralph Brown, trawler, Brookings, OR  
Mr. Merrick Burden, Environmental Defense Fund, Seattle, WA  
Mr. Joe Sullivan, The Nature Conservancy, Seattle, WA  
Mr. Michael Bell, The Nature Conservancy, San Luis Obispo, CA  
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR

#### **G.4.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning**

Responding to requests to start the scoping process for trailing amendments, especially coastal community fishing associations (CFAs) in September, Dr. McIsaac noted the Council staff was completely oversubscribed and cannot start work on that between now and September. The schedule in the Year at a Glance has scoping in November, public review documents in April 2011, and final Council action in June 2011 in time, hopefully, for implementation January 1, 2012. He did not see a need to implement trailing amendments earlier than that. To change the program in the middle of the game during the first year (2011) does not seem reasonable and we have had great difficulty in figuring out how to get something done before January 1, 2012. Dr. Hanson said you don't want to be changing things during the middle of the year; it would be too confusing and cumbersome.

Mr. Steve Williams appreciated the overview and supported the approach Dr. McIsaac laid out and displayed in the Year at a Glance. With regard to the trailing amendments, he supported halibut IBQ as a priority. With regard to the September agenda, he believes that marine spatial planning is an important emerging topic and hoped it would remain on the agenda.

Mr. Moore supported the approach presented by Dr. McIsaac. He noted that if the halibut allocation issue does rise to the top in September and if it is a minor change in numbers, it could be just a regulatory amendment for a two-meeting process instead of three meetings. On safe harbor and community associations, he said if you are going to have workshops, keep in mind everybody's definition of CFAs are different.

Ms. Lowman said she understood the workload issue and need to focus the trailing amendments. However, the topic of CFAs has been on our agenda and been shoved off for over a year. She feels there is an expectation of us picking this up and making this program successful. She would like to start scoping in September and finish in the spring, but understands the workload. She also remarked that control rule concerns and safe harbors were high priorities for trailing amendments and wondered if we could use a two-part scoping process to expedite the Council action.

Mr. Lockhart agreed with Mr. Moore's comments. Fully recognizing the workload, he would still like to start the scoping earlier; we have several things in process – the public comment process comes up with a lot of things to address. However, he thought the schedule seems reasonable, but he did not want to totally preclude having scoping in September.

Mr. Myer and Ms. Culver thought that halibut IBQ and other bycatch issues could be lower priorities than risk pools and establishing safe harbors.

Ms. Vojkovich expressed her hope that Council meetings will eventually come back down to five days. In regard to her question about marine spatial planning, Dr. McIsaac stated that he thought there would be something out for September.

Mr. Lockhart, regarding the Ecosystem FMP, said he would like to see the science centers give short presentations on ecosystem science to inform the Council (twenty minute presentations; 10 minute discussions). If the Mitchell Act agenda item is postponed, he would like to explore adding one of those presentations into the agenda. Mr. Roth supported Mr. Lockhart's idea about having the short informational presentations on ecosystem management on a regular basis.

ADJOURN

Council adjourned on Thursday, June 17, 2010 at 7:15 p.m.



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Mark Cedergreen  
Council Chairman

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June 13, 2011  
Date