

MINUTES  
Pacific Fishery Management Council  
Hilton San Diego/Del Mar Hotel  
15575 Jimmy Durante Blvd  
Del Mar, California 92014  
858-792-5200  
November 12-17, 2006

<b>A.</b>	<b>Call to Order.....</b>	<b>5</b>
<b>A.1</b>	<b>Opening Remarks, Introductions .....</b>	<b>5</b>
A.1.a	Swearing in of New Council Member .....	5
<b>A.2</b>	<b>Roll Call .....</b>	<b>5</b>
<b>A.3</b>	<b>Executive Director's Report .....</b>	<b>5</b>
<b>A.4</b>	<b>Council Action: Approve Agenda.....</b>	<b>5</b>
<b>B.</b>	<b>Administrative Matters.....</b>	<b>6</b>
<b>B.1</b>	<b>Future Council Meeting Agenda Planning (11/14/06; 8:06 am) .....</b>	<b>6</b>
B.1.a	Agenda Item Overview.....	6
B.1.b	Agency Reports.....	6
B.1.c	Reports and Comments of Advisory Bodies .....	6
B.1.d	Public Comment .....	6
B.1.e	Council Discussion of Future Council Meeting Agenda Topics .....	6
<b>B.2</b>	<b>Updated Research and Data Needs (11/16/06; 2:26 pm) .....</b>	<b>6</b>
B.2.a	Agenda Item Overview.....	6
B.2.b	Reports and Comments of Advisory Bodies .....	6
B.2.c	Public Comment .....	6
B.2.d	Council Action: Adopt Final Recommendations.....	7
<b>B.3</b>	<b>Legislative Matters.....</b>	<b>8</b>
<b>B.4</b>	<b>Fiscal Matters (11/17/06; 4:18 pm) .....</b>	<b>8</b>
B.4.a	Agenda Item Overview.....	8
B.4.b	Budget Committee Report.....	8
B.4.c	Reports and Comments of Advisory Bodies .....	8
B.4.d	Public Comment .....	8
B.4.e	Council Action: Consider Recommendations of the Budget Committee .....	8
<b>B.5</b>	<b>Appointment of Council Officers and Members of Advisory Bodies, Standing Committees, and Other Forums, Including the 2007-2009 Advisory Body Term and any Necessary Changes to Council Operating Procedures (COP) .....</b>	<b>8</b>
B.5.a	Agenda Item Overview.....	8
B.5.b	Reports and Comments of Advisory Bodies .....	8
B.5.c	Public Comment .....	8
B.5.d	Council Action: Appoint Council Officers, Consider Changes to COPs, Appoint New Advisory Body Members as Necessary, Including 2007-2009 Advisory Body Term.....	8
<b>B.6</b>	<b>Council Three-Meeting Outlook, Draft March 2007 Council Meeting Agenda, and Workload Priorities (11/17/06; 4:38 pm) .....</b>	<b>12</b>
B.6.a	Agenda Item Overview.....	12
B.6.b	Reports and Comments of Advisory Bodies .....	12
B.6.c	Public Comment .....	12
B.6.d	Council Guidance on Three Meeting Outlook, March 2007 Council Agenda, and Council Staff Workload, including Priorities for Advisory Body Consideration.....	12

<b>C.</b>	<b><i>Highly Migratory Species Management</i></b> .....	<b>12</b>
<b>C.1</b>	<b>National Marine Fisheries Service (NMFS) Report (11/14/06; 8:28 am)</b> .....	<b>12</b>
C.1.a	Southwest Region Activity Report.....	12
C.1.b	Reports and Comments of Advisory Bodies .....	12
C.1.c	Public Comment .....	12
C.1.d	Council Discussion.....	13
<b>C.2</b>	<b>Final Changes to Routine Management Measures (11/14/06; 8:40 am)</b> .....	<b>13</b>
C.2.a	Agenda Item Overview.....	13
C.2.b	Report of the Highly Migratory Species Management Team.....	13
C.2.c	Agency Comments .....	13
C.2.d	Reports and Comments of Advisory Bodies .....	13
C.2.e	Public Comment .....	13
C.2.f	Council Action: Adopt Final Changes to 2007-2008 Routine Management Measures .....	13
<b>C.3</b>	<b>Exempted Fishing Permits (EFP) (11/14/06; 10:25am)</b> .....	<b>15</b>
C.3.a	Agenda Item Overview.....	15
C.3.b	Reports and Comments of Advisory Bodies .....	15
C.3.c	Public Comment .....	15
C.3.d	Council Action: Consider Drift Gillnet EFP (Status for 2006 and Guidance for 2007) and Preliminary Alternatives for 2007 Shallow Set Longline EFP (11/14/06; 1:17 pm) .....	16
<b>C.4</b>	<b>Fishery Management Plan (FMP) Amendment 1: Overfishing Response for Bigeye Tuna (11/14/06; 2:02 pm)</b> .....	<b>19</b>
C.4.a	Agenda Item Overview.....	19
C.4.b	Reports and Comments of Advisory Bodies .....	19
C.4.c	Public Comment .....	19
C.4.d	Council Action: Adopt Final Preferred FMP Amendment Alternative .....	19
<b>C.5</b>	<b>Yellowfin Tuna Status (11/14/06; 3:35 pm)</b> .....	<b>21</b>
C.5.a	Agenda Item Overview.....	21
C.5.b	Reports and Comments of Advisory Bodies .....	21
C.5.c	Public Comment .....	21
C.5.d	Council Action: Consider Stock Assessment and Possible Overfishing Implications.....	21
<b>D.</b>	<b><i>Groundfish Management</i></b> .....	<b>23</b>
<b>D.1</b>	<b>NMFS Report (11/14/06; 4:35 pm)</b> .....	<b>23</b>
D.1.a	Activity Reports .....	23
D.1.b	Reports and Comments of Advisory Bodies .....	24
D.1.c	Public Comment .....	24
D.1.d	Council Discussion.....	24
<b>D.2</b>	<b>Groundfish Bycatch Work Plan (11/14/06; 4:50 pm)</b> .....	<b>24</b>
D.2.a	Agenda Item Overview.....	24
D.2.b	Reports and Comments of Advisory Bodies .....	24
D.2.c	Public Comment .....	24
D.2.d	Council Action: Adopt Final Groundfish Bycatch Work Plan .....	24
<b>D.3</b>	<b>Groundfish Stock Assessments for 2007 (11/15/06; 8:10 am)</b> .....	<b>26</b>
D.3.a	Agenda Item Overview.....	26
D.3.b	Agency and Tribal Comments.....	26
D.3.c	Reports and Comments of Advisory Bodies .....	27
D.3.d	Public Comment .....	28
D.3.e	Council Action: Adopt Final List and Schedule of 2007 Groundfish Assessments .....	28
<b>D.4</b>	<b>Exempted Fishing Permits for 2007 Fisheries (11/15/06; 1:41 pm)</b> .....	<b>29</b>
D.4.a	Agenda Item Overview.....	29
D.4.b	Reports and Comments of Advisory Bodies .....	29
D.4.c	Public Comment .....	30

D.4.d	Council Action: Approve Final Recommendations to NOAA Fisheries.....	31
<b>D.5</b>	<b>Consideration of Inseason Adjustments (11/15/06; 9:59 am).....</b>	<b>31</b>
D.5.a	Agenda Item Overview.....	31
D.5.b	Report of the Groundfish Management Team .....	32
D.5.c	Agency and Tribal Comments.....	33
D.5.d	Reports and Comments of Advisory Bodies .....	33
D.5.e	Public Comment .....	33
D.5.f	Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2006 and 2007 Fisheries.....	34
<b>D.6</b>	<b>Shore-Based Whiting Monitoring Program .....</b>	<b>35</b>
D.6.a	Agenda Item Overview (11/16/06; 8:17 am).....	35
D.6.b	NMFS Report .....	35
D.6.c	Agency and Tribal Comments.....	36
D.6.d	Reports and Comments of Advisory Bodies .....	36
D.6.e	Public Comment .....	36
D.6.f	Council Action: Adopt Alternatives and Draft Regulations for Analysis and Public Review .....	36
<b>D.7</b>	<b>Intersector Allocation for Trawl Individual Quotas and Other Management Needs.....</b>	<b>37</b>
D.7.a	Agenda Item Overview (11/16/06; 10:15 am).....	37
D.7.b	Recommendations of the Groundfish Allocation Committee.....	37
D.7.c	Agency and Tribal Comments.....	38
D.7.d	Reports and Comments of Advisory Bodies .....	38
D.7.e	Public Comment .....	38
D.7.f	Council Action: Adopt Preliminary Alternatives for Analysis and Further Development .....	39
<b>D.8</b>	<b>Final Consideration of Inseason Adjustments, If Necessary (11/17/06 4 pm) .....</b>	<b>40</b>
D.8.a	Agenda Item Overview.....	40
D.8.b	Reports and Comments of Advisory Bodies .....	40
D.8.c	Public Comment .....	41
D.8.d	Council Action: Adopt or Confirm Final Recommendations for Adjustments to 2006 and 2007 Fisheries	41
<b>E.</b>	<b><i>Habitat</i>.....</b>	<b>41</b>
<b>E.1</b>	<b>Current Habitat Issues (11/15/06; 3:19 pm) .....</b>	<b>41</b>
E.1.a	Report of the HC.....	41
E.1.b	Reports and Comments of Advisory Bodies .....	41
E.1.c	Public Comment .....	41
E.1.d	Council Action: Consider Habitat Committee Recommendations .....	42
<b>F.</b>	<b><i>Coastal Pelagic Species Management</i>.....</b>	<b>43</b>
<b>F.1</b>	<b>Pacific Sardine Stock Assessment and Harvest Guideline (11/15/06; 4:06 pm) .....</b>	<b>43</b>
F.1.a	Agenda Item Overview .....	43
F.1.b	NMFS Report.....	43
F.1.c	Agency and Tribal Comments .....	43
F.1.d	Reports and Comments of Advisory Bodies.....	43
F.1.e	Public Comment .....	43
F.1.f	Council Action: Adopt Pacific Sardine Harvest Guideline and Management Measures for 2007 .....	44
<b>F.2</b>	<b>Stock Assessment Review (STAR) Panel Terms of Reference for 2007 (11/16/06; 8:08 am)</b>	<b>44</b>
F.2.a	Agenda Item Overview .....	44
F.2.b	SSC Report .....	44
F.2.c	Agency and Tribal Comments .....	44
F.2.d	Reports and Comments of Advisory Bodies.....	44
F.2.e	Public Comment .....	44
F.2.f	Council Action: Adopt Terms of Reference for Coastal Pelagic Species STAR Panels for Public	

Review .....	44
<b>G. Pacific Halibut Management.....</b>	<b>45</b>
<b>G.1 Changes to Catch Sharing Plan and 2007 Annual Regulations.....</b>	<b>45</b>
G.1.a Agenda Item Overview (11/16/06; 1:09 pm).....	45
G.1.b Agency and Tribal Recommendations and Comments.....	45
G.1.c Reports and Comments of Advisory Bodies .....	45
G.1.d Public Comment .....	45
G.1.e Council Action: Adopt Final Proposed Changes for 2007 .....	45
<b>H. Marine Protected Areas .....</b>	<b>45</b>
<b>H.1 Channel Islands National Marine Sanctuary Marine Protected Areas (11/16/06; 1:29 pm) ..</b>	<b>45</b>
H.1.a Agenda Item Overview.....	45
H.1.b Reports and Comments of Advisory Bodies .....	45
H.1.c Public Comment .....	46
H.1.d Council Action: Consider the Next Steps in Implementation of Fishing Regulations through the Magnuson-Stevens Act .....	46
<b>I. Salmon Management.....</b>	<b>49</b>
<b>I.1 Preseason Salmon Management Schedule for 2007 (11/17/06 ; 8:10 am) .....</b>	<b>49</b>
I.1.a Agenda Item Overview .....	49
I.1.b Agency and Tribal Comments .....	49
I.1.c Reports and Comments of Advisory Bodies.....	50
I.1.d Public Comment .....	50
I.1.e Council Action: Approve 2007 Preseason Management Schedule and Hearing Sites.....	50
<b>I.2 Salmon Methodology Review .....</b>	<b>50</b>
I.2.a Agenda Item Overview (11/17/06; 8:48 am) .....	50
I.2.b Report of the Scientific and Statistical Committee.....	51
I.2.c Agency and Tribal Comments .....	51
I.2.d Reports and Comments of Advisory Bodies.....	51
I.2.e Public Comment .....	51
I.2.f Council Action: Adopt Final Salmon Methodology Changes for 2007.....	52
<b>I.3 FMP Amendment 15 (de minimis fisheries) (11/17/06: 10:51 am).....</b>	<b>52</b>
I.3.a Agenda Item Overview .....	52
I.3.b Salmon Amendment Committee Report.....	52
I.3.c Agency and Tribal Comments (11/17/06; 1:14 pm) .....	53
I.3.d Reports and Comments of Advisory Bodies (11/17/06; 1:05 pm).....	53
I.3.e Public Comment (11/17/06; 1:54 pm) .....	54
I.3.f Council Action: Adopt Final Preferred Alternative for Implementation in 2007 .....	54
<b>OPEN PUBLIC COMMENT FOR NON-AGENDA ITEMS.....</b>	<b>57</b>
Public comments on fishery issues not on the agenda are accepted at this time.....	57

## **A. Call to Order**

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

Chairman Hansen opened the 186th meeting of the Pacific Fishery Management Council on Monday, November 13, 2006 at 5:17 pm. A closed session was held prior to the start of the meeting to discuss personnel and litigation matters.

#### **A.1.a Swearing in of New Council Member**

Mr. Frank Lockhart swore in newly appointed Council member David Sones as the tribal obligatory member.

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

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

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

The following Council member was absent from the Monday and Tuesday sessions of the meeting:

Mr. Gordon Williams (State of Alaska Official, non voting)

The following Council member was absent during the entire meeting:

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

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

Dr. Don McIsaac provided the Executive Director's report, including reference to the informational reports.

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

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

## **B. Administrative Matters**

### **B.1 Future Council Meeting Agenda Planning (11/14/06; 8:06 am)**

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

Dr. McIsaac provided the agenda item overview and reviewed the proposed three-meeting outlook and March meeting agenda..

#### **B.1.b Agency Reports**

Mr. Russell Porter, PSMFC, reported on RecFIN operations with regard to recommendations from their workshop in August and a RecFIN committee meeting in October. He noted that they are trying to develop a more consistent method of handling recreational data among the States and asking for direction from the Council on a list of items provided in Attachment B.1.b. Additionally, they are interested in establishing a procedure for SSC review of pertinent RecFIN issues. He reported that he would be prepared to present the recommendations and other issues to the Council by March and requested a place on the Council agenda at a meeting after that time.

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

Ms. Michele Culver provided Agenda Item B.1.c, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item B.1.c, Supplemental HMSAS Report.

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

None.

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

None.

### **B.2 Updated Research and Data Needs (11/16/06; 2:26 pm)**

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

Mr. Mike Burner provided the agenda item overview.

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

Mr. Burner read Agenda Item B.2.b, Supplemental HC Report. Dr. Bob Conrad provided Agenda Item B.2.b, Supplemental SSC Report. Mr. Burner read Agenda Item B.2.b, CPSMT Report and Agenda Item B.2.b, CPSAS Report. Ms. Heather Mann provided Agenda Item B.2.b, Supplemental GAP Report. Dr. John Field provided Agenda Item B.2.b, Supplemental GMT Report.

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

Ms. Heather Mann, Munro Consulting, Siletz, Oregon  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California  
Mr. Sean Hastings, CINMS, Santa Barbara, California

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

Mr. Gordy Williams noted there has not been discussion regarding the salmon sections and asked if the salmon advisory bodies had provided a statement. Mr. Burner said the Salmon Technical Team and Salmon Advisory Subpanel have had this item on their September and November agendas, but given the heavy salmon workload this fall they have not had the opportunity to comment. The schedule this week is a bit awkward as those groups are meeting today. Mr. Burner stated that any comments developed by these groups could be incorporated into the final document. Mr. Williams noted several language changes that would help clarify the document and stated he would work with Council staff to implement them. Mr. Williams wished to clarify that references to a revised MSA refer to the 1996 reauthorization not the current efforts in Congress and to ensure that the language reflects that GSI is intended to complement the CWT system, not to replace it or suggest that the CWT program is unsuitable.

Mr. Moore noted that the process is a bit awkward as the Council will not be able to see the final document prior to distribution, but he understands the time limitation and the need to distribute the document in December.

Mr. Moore moved (Motion 21) that the Council adopt the public review draft, Agenda Item B.2.a, Attachment 1: Research and Data Needs, 2006-2008 as a final document subject to the following changes: incorporate the bullet points (except for bullet point #3) in Agenda Item B.2.b, Supplemental SSC Report; and include comments provided under Agenda Item B.2.b by the GMT, GAP, CPSAS, CPSMT, HC, and any that may be forthcoming from the Salmon Advisory Subpanel and Salmon Technical Team, and the comments from Council members. Mr. Curt Melcher seconded the motion.

Mr. Moore said the Council staff should work with the chairs of the advisory bodies to incorporate their changes. Mr. Moore stated he omitted the third bullet in the SSC statement because there is no other place in the document where we are recommending a cost-benefit analysis of research activities, and he questioned whether it would be appropriate. Mr. Moore was uncertain whether NMFS or the Council has the tools or information to do that type of cost-benefit analysis. Additionally, the Council heard strong recommendations to support the existing language and the use of non-extractive resource assessment methodologies from the groundfish advisory bodies.

Ms. Vojkovich asked if the document would benefit from a review by the West Coast Science Centers to ensure the final version meets everyone's needs.

Dr. McIsaac said, in the past, Council staff took the document to West Coast and national research coordinators in NMFS, but as Mr. Burner indicated, this year's schedule precluded such coordination. Dr. McIsaac noted that January is a critical time for funding and planning decisions and the document really needs to reach finality soon.

Mr. Burner said he noted that although the document was completed on a shortened schedule with less of an opportunity to see the final document, the document has been out for review in various forms since September. Mr. Burner noted that many good comments have come forward at this meeting and that Council staff will do its best to produce a high-quality document for distribution in December.

Mr. Moore agrees with Ms. Vojkovich's ideas about additional coordination is a good one, but with Dr. McIsaac and Mr. Burner's comments about the importance of timing the release of the document, he recommends we direct Council staff to complete and distribute the document as scheduled with the hope there will have more time to review and complete the document in the next cycle.

Motion 21 passed.

### **B.3 Legislative Matters**

This agenda item was removed from the agenda, the Legislative Committee did not meet.

### **B.4 Fiscal Matters (11/17/06; 4:18 pm)**

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

Dr. Coon provided the agenda item overview.

#### **B.4.b Budget Committee Report**

Dr. Coon referenced Agenda Item B.4.b, Supplemental Budget Committee Report.

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

None.

#### **B.4.d Public Comment**

None.

#### **B.4.e Council Action: Consider Recommendations of the Budget Committee**

Mr. Warrens moved and Mr. Ortmann seconded a motion (Motion 29) to approve the report of the Budget Committee as shown in Agenda Item B.4.b, Supplemental Budget Committee Report.

### **B.5 Appointment of Council Officers and Members of Advisory Bodies, Standing Committees, and Other Forums, Including the 2007-2009 Advisory Body Term and any Necessary Changes to Council Operating Procedures (COP)**

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

Dr. Coon provided the agenda item overview.

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

None.

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

None.

#### **B.5.d Council Action: Appoint Council Officers, Consider Changes to COPs, Appoint New Advisory Body Members as Necessary, Including 2007-2009 Advisory Body Term**

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 30) to Suspend COP 1 for one year only (2007), and elect as Council Chair Mr. Donald Hansen and Vice Chair Dave Ortmann for the 2007 calendar year. Motion 30 passed.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 31) to appoint Mr. Keith Lutz to the vacant Tribal Government Position on the STT. Motion 31 passed.

Mr. Warrens moved and Mr. Melcher seconded a motion (Motion 32) to appoint to the Groundfish Allocation Committee, nonvoting positions, Mr. Tom Ghio (Open Access Fishery) and Mr. Daniel Waldeck (Pacific Whiting Fishery). Motion 32 passed.

Mr. Warrens moved and Mr. Melcher seconded a motion (Motion 33) to make an interim appointment of Mr. Steve Barrager to the vacant Conservation Position on the Groundfish Allocation Committee and direct the Council staff to solicit nominations to fill the position with a permanent appointee at the March Council meeting. Motion 33 passed.

Mr. Melcher moved and Mr. Warrens seconded a motion (Motion 34) to appoint the following persons to the 2007-2009 advisory body term for the Coastal Pelagic Species Advisory Subpanel:

California Commercial

Mr. Neil Guglielmo  
Ms. Terry Hoinsky  
Mr. John Royal

Oregon Processor

Mr. Mike Okoniewski

Washington Processor

Mr. A. Pierre Marchand

Oregon Commercial

Mr. Eugene Law

California Sport/Charter

CPT Paul Strasser

Washington Commercial

Mr. Robert Zuanich

Conservation

Mr. Ben Enticknap

California Processor

Ms. Diane Pleschner-Steele

Motion 34 passed.

Mr. Dale Myer moved and Mr. Mark Cedergreen seconded a motion (Motion 35) to appoint to the 2007-2009 advisory body term for the Groundfish Advisory Subpanel the following people:

Fixed Gear

Mr. Robert Alverson  
Mr. Tom Ghio  
Mr. Gerry Richter

Processors

Mr. Barry Cohen  
Ms. Heather Mann

California Trawl

Mr. Tommy Ancona

At-Sea Processor

Mr. Daniel A. Waldeck

Oregon Trawl

Mr. Kelly Smotherman

California Charter South of Point Conception

Mr. Mike Hansen

Washington Trawl

Mr. Marion Larkin

California Charter North of Point Conception

Mr. Robert Ingles

Open Access South of Cape Mendocino

Mr. Daniel Platt

Oregon Charter

Mr. Wayne Butler

Open Access North of Cape Mencino

Mr. Kenyon Hensel

Washington Charter

Mr. Rhett Weber

Sport Fisheries

Mr. John Holloway  
Mr. James Martin  
Mr. David Seiler

Conservation

Mr. Steve Barrager

Active Tribal Fisher

Mr. Gordon M. Smith

Motion 35 passed.

Mr. Anderson moved and Mr. Melcher seconded a motion (Motion 36) to appoint to the 2007-2009 advisory body term for the Highly Migratory Species Advisory Subpanel the following persons:

Commercial Troll

Mr. Wayne Heikkila

Processor North of Cape Mendocino

Ms. Gayle Parker

Commercial Purse Seine

Mr. August Felando

California Charter Boat

Mr. Robert Fletcher

Commercial Gillnet

Mr. Steve Fosmark

Washington/Oregon Charter Boat

Ms. Linda Buell

Commercial Fisheries

Mr. Pete Dupuy  
Mr. Douglas Fricke  
Mr. William Sutton

Private Sport

Mr. Bob Osborne

Conservation

Ms. Meghan Jeans

Processor South of Cape Mendocino

None-Council to leave vacant until interest is expressed.

Public At-Large

Ms. Pamela Tom

Motion 36 passed.

Ms. Vojkovich moved and Mr. Melcher seconded a motion (Motion 37) to appoint the following persons to the 2007-2009 advisory body term for the Salmon Advisory Subpanel:

California Troller

Mr. Duncan MacLean

Oregon Charter Boat

Mr. Mike Sorenson

Oregon Troller

Mr. Paul Heikkila

Washington Charter Boat

Mr. Butch Smith

Washington Troller

Mr. Jim Olson

California Sport Fisher

Mr. Dan Wolford

Commercial Gillnet Fishery

Mr. Kent Martin

Oregon Sport Fisher

Mr. Richard Heap

Processor

Mr. Gerald Reinholdt

Washington Sport Fisher

Mr. Steve Watrous

California Charter Boat

Mr. Craig Stone

Idaho Sport Fisher

Dr. Tom Welsh

Washington Active Tribal Fisher  
Mr. Calvin Frank

California Tribal  
Mr. Dave Hillemeier

Conservation  
Mr. Jim Hie

Motion 37 passed.

Mr. Warrens moved and Mr. Melcher seconded a motion (Motion 38) to appoint the following persons to the 2007-2009 advisory body term for the Habitat Committee

Commercial Fishing Industry  
Mr. Joel Kawahara

Northwest or Columbia River Tribal Representative  
Mr. Stuart Ellis

Sport Fishing Industry  
Ms. Liz Hamilton

California Tribal  
Mr. Mike Orcutt

Conservation  
Mr. Mike Osmond

Public At-Large  
Mr. Sean White

Motion 38 passed.

Mr. Ortmann moved and Mr. Anderson seconded a motion (Motion 39) to appoint the following persons to the 2007-2009 advisory body term for the Council's Scientific and Statistical Committee:

Scientists

Mr. Steve Berkeley  
Dr. Thomas Helser  
Dr. Stuart Todd Lee  
Dr. Lyman McDonald  
Dr. Andre E. Punt  
Dr. Steve Ralston

Motion 39 passed.

Chairman Hansen appointed the following persons to the Ad Hoc Shoreside Whiting Alternative Workgroup (SWAG):

NMFS NW Region  
Mr. Frank Lockhart  
Ms. Yvonne deReynier  
Ms. Becky Renko

CDFG  
Ms. Susan Ashcraft

Council Member  
Mr. Rod Moore (Chair of SWAG)

Industry  
Ms. Heather Mann  
Mr. David Jincks  
Mr. Rich Carol

WDFW  
Mr. Brian Culver

Enforcement  
Mr. Dayna Matthews  
Cpt. Mike Cenci

ODFW  
Mr. Mark Saelens

Chairman Hansen also appointed Mr. Craig Urness to replace Mr. Frank Dulcich on the Ad Hoc Groundfish Trawl Individual Quota Committee.

**B.6 Council Three-Meeting Outlook, Draft March 2007 Council Meeting Agenda, and Workload Priorities (11/17/06; 4:38 pm)**

**B.6.a Agenda Item Overview**

Dr. Don McIsaac provided the agenda item overview.

**B.6.b Reports and Comments of Advisory Bodies**

Dr. Coon read Agenda Item B.6.b, Supplemental GMT Report and Mr. DeVore read Agenda Item B.6.b, Supplemental GAP Report.

**B.6.c Public Comment**

Mr. Rod Fujita, ED, San Francisco, California—requested the GMT and Gap to review the Nature Conservancy proposal.

Chairman Hanson noted there was a letter from owner operator Steve Fritz, Morro Bay on this agenda item.

**B.6.d Council Guidance on Three Meeting Outlook, March 2007 Council Agenda, and Council Staff Workload, including Priorities for Advisory Body Consideration**

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

Ms. Vojkovich expressed concern that the Council pursue the open access amendment on a timely basis. She stated California would provide assistance. ODFW stated their priority to assist with the American Fisheries Act issues.

**C. Highly Migratory Species Management**

**C.1 National Marine Fisheries Service (NMFS) Report (11/14/06; 8:28 am)**

**C.1.a Southwest Region Activity Report**

Mr. Mark Helvey referred to Agenda Item C.1.a, Attachment 1.

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

None.

**C.1.c Public Comment**

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

### **C.1.d Council Discussion**

None.

## **C.2 Final Changes to Routine Management Measures (11/14/06; 8:40 am)**

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

Dr. Kit Dahl provided the agenda item overview.

### **C.2.b Report of the Highly Migratory Species Management Team**

Ms. Culver provided Agenda Item C.2.b, Supplemental HMSMT Report.

### **C.2.c Agency Comments**

None.

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

Ms. Michele Culver provided Agenda Item C.2.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item C.2.b, Supplemental HMSAS Report. Mr. Anthony Warrington provided Agenda Item C.2.b, Supplemental EC Report.

### **C.2.e Public Comment**

Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California  
Mr. Dan Wolford, Coastside Fishing Club, Los Gatos, California  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California  
Mr. Bob Fletcher, Sportfishing Association of California, San Diego, California  
Mr. Tom Raftican, United Anglers of Southern California, Irvine, California

### **C.2.f Council Action: Adopt Final Changes to 2007-2008 Routine Management Measures**

Mr. Warrens moved and Mr. Thomas seconded a motion (Motion 2), with regard to the vessel marking requirements, to choose option 2 from Agenda Item C.2.a, Attachment 1, which exempts commercial passenger fishing vessels from current federal vessel marking requirements.

Mr. Warrens said some may perceive a problem in Southern California south of Point Conception; but during public testimony Mr. Fletcher and others made excellent arguments for not requiring CPFV marking; the vessel name can be easily seen for vessel identification. He did not think enforcement made a strong enough case for the marking of these vessels; farther north in California, Oregon, and Washington, the point is moot because the concern has to do with incursions of Mexican vessels into U.S. waters.

Mr. Thomas said that most people are not familiar with the Southern California fleet described by Mr. Fletcher, in regard to their size. They are large vessels and the name on the stern is easily visible from any aircraft.

Ms. Vojkovich supported the motion because the original intent of the FMP was to exempt these vessels, and the requirement in regulations was an oversight. She said this change would apply to "six pack" vessels, which are licensed, at least in the state of California. She did not see this as much of a risk for

management of HMS on the West Coast because the issue could be revisited during a future biennial cycle.

Mr. Warrens noted that in 1985 the Council made the same argument with regard to marking charter vessels targeting groundfish.

Mr. Anderson supported the motion; if there is an issue of identifying CPFVs then it goes beyond this particular issue. Although the marking requirement does not seem to him to be much of a burden, he didn't see a compelling case made for retaining the regulation. But he noted that there remains an issue of identifying smaller vessels.

Mr. Cedergreen agreed with Mr. Anderson's statement. As with Mr. Anderson, he noted that the Westport charterboats complied with the regulation and did not find the requirement overly burdensome, but he still supports the exemption.

Motion 2 passed.

Mr. Thomas moved and Mr. Warrens seconded a motion, (Motion 3) to adopt albacore Option 3 and bluefin Option 2 with a 10 fish daily bag limit from Agenda Item C.2.a, Attachment 2. Albacore Option 3 implements a daily bag limit of 25 fish per angler per day north of Point Conception to the California/Oregon border and a daily bag limit of 10 fish per day south of Point Conception to the U.S./Mexican border. Bluefin Option 2 establishes a daily bag limit for bluefin tuna with the Council setting the bag limit amount to 10 fish.

Mr. Thomas said he strongly believes that Point Conception is a very good boundary line for the two albacore daily bag limits and would be easy to enforce. There are many other fishery management boundaries that are difficult to enforce.

Ms. Vojkovich argued for making the regulations as simple as possible, so that anglers can understand them and to make enforcement easier. In addition, these measures are responsive to the IATTC resolution on albacore effort. Finally, the recreational community has made a compelling argument for the differential albacore bag limit. She noted that there are concerns about our knowledge of stock status. At this time the bag limits are more symbolic and not restrictive, although perhaps in the future, as new information becomes available, more restrictions may be needed. Ms. Vojkovich supported the motion.

Mr. Melcher asked the maker of the motion if the bluefin bag limit is a separate additional bag limit, to which the answer was that it is. Noting that in the bluefin options there is a distinct statement about the possession limit being one daily bag limit he asked if that is the case for the albacore option as well. Mr. Thomas said enforcement should answer that question.

Mr. Warrington said that the numbers of fish in the options is a daily bag limit but in California you can get a multi-day permit for up to three daily bag limits on a single trip. Mr. Melcher said the option says that the possession limit is equal to one daily bag limit; does that prevent the multi-day possession limit? Mr. Warrington said for bluefin, unless it gets exempted by the Commission, an angler could continue to possess up to three bluefin daily bag limits under a three-day multi-day permit.

Mr. Helvey commented on Ms. Vojkovich's reference to the symbolic nature of this action. He said no other country has stepped forward to comply with the resolution, so it is an indicator to the international community and to the U.S. delegation to the IATTC about the Council's intent to conserve these tuna stocks.

Mr. Melcher followed-up to clarify whether the daily possession limit would be in Federal regulations and would conflict with the state regulations with respect to multi-day possession limits.

Dr. McIsaac described the motion and said it does reference a possession limit for both the albacore and bluefin bag limits. He thought this could raise the question of inconsistency between Federal and state regulations. Mr. Judson Feder said if there is an inconsistency the Federal limit would prevail, providing the fishing is taking place beyond state waters.

Mr. Anderson referenced Washington regulations and said he didn't read the motion to prevent possession of multiple daily bag limits.

Dr. Dahl pointed out that the decision support document (Agenda Item C.2.a, Attachment 2) describes the options in terms of a bag limit and does not mention a different possession limit. He thought the intent in the HMSMT statement was to recommend a daily bag limit, without precluding the California multi-day permit.

Mr. Cedergreen suggested some wording changes for the motion to resolve the issue. Dr. McIsaac reiterated Dr. Dahl's point about the difference in wording between the decision document and the HMSMT Report. Mr. Thomas confirmed he was referring to the HMSMT report when he made his motion. Mr. Warrington noted that the states can always be more restrictive than the Federal regulations and again described the multi-day permit issued by California.

Ms. Culver said the HMSMT discussed this and their understanding is that in California there is a blanket regulation referencing the possession limit and then there are additional regulations authorizing the multi-day permit, which allows up to three daily bag limits in your possession. The HMSMT's intent was to mimic state regulations in Federal regulations in that regard.

Mr. Thomas said that was the intent of the motion.

Mr. Melcher said the reference to the decision document clarifies it for him and if that is the intent of the motion he is satisfied.

Motion 3 passed.

Mr. Melcher asked the Council to defer consideration of a change in the northern boundary of the Pacific leatherback conservation area until the next biennial management cycle. He noted that the analysis is not ready at this time and pointed out new information that could become available in the next two years to help with this decision. The Council concurred with this recommendation.

### **C.3 Exempted Fishing Permits (EFP) (11/14/06; 10:25am)**

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

Dr. Kit Dahl provided the agenda item overview.

#### **C.3.b Reports and Comments of Advisory Bodies**

Ms. Culver provided Agenda Item C.3.b, Supplemental HMSMT Report. Mr. Fricke provided Agenda Item C.3.b, Supplemental HMSAS Report.

#### **C.3.c Public Comment**

Mr. Tom Raftican, United Anglers of Southern California, Irvine, California  
Ms. Kate Wing, NRDC, San Francisco, California  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

Mr. Ben Enticknap, Oceana, Portland, Oregon  
Ms. Karen Steele, Turtle Island Restoration Project, Forest Knolls, California  
Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California  
Mr. Pete Dupuy, Ocean Pacific Seafood, Tarzana, California

**C.3.d Council Action: Consider Drift Gillnet EFP (Status for 2006 and Guidance for 2007) and Preliminary Alternatives for 2007 Shallow Set Longline EFP (11/14/06; 1:17 pm)**

Mr. Moore asked if NOAA Fisheries personnel could help clarify what the bycatch levels are in the drift gillnet fishery, because a variety of different statistics were cited in public testimony. Mr. Helvey said that NOAA Fisheries did not have that information available at the present time but Lyle Enriquez, the SWR observer program director, was present to answer questions.

Mr. Moore asked if he could respond to information presented in public testimony on marine mammal impacts. Mr. Enriquez said he was unfamiliar with those impacts but could speak to finfish bycatch. The largest percentage of finfish bycatch is either common mola or blue sharks and the disposition of those fish should be considered. For example, over 90 percent of the common mola are released alive. Other fish species may not be targets of the fishery but are not bycatch, because they are retained. He also said one has to consider whether finfish bycatch mortality presents a conservation concern.

In response to Mr. Moore's questions Ms. Liz Petras said that information is available in the BO and the draft EA. Mr. Moore reiterated his question about information in public testimony on marine mammals, which was presented in different ways. Ms. Petras discussed the 1997 take reduction plan and how it reduced the take of cetaceans in the drift gillnet fishery. She also said the EA presents take-per-unit-of-effort information for protected species and discussed the analysis in that document. She said that for all species the projected takes from the drift gillnet EFP are below the potential biological removal (PBR) standard used in the MMPA.

Mr. Anderson reviewed the Council's previous decision on the drift gillnet EFP for implementation in 2006, noting that any continuation of the EFP in future years would be subject to review and that very restrictive take caps for several marine mammals were recommended. However, NOAA Fisheries informed the Council that it would not apply a take cap of one animal for each of three marine mammals as part of the conditions for the EFP. Mr. Anderson raised this issue at the June 2006 Council meeting, noting his disappointment that NOAA Fisheries had not followed Council recommendations with respect to these caps. He asked for confirmation that NMFS had subsequently put those restrictive take caps back into the proposal. If there is no new information that would cause the Council to reconsider the March decision and given that we have already discussed this issue, the DGN EFP proposal should be forwarded at this time for implementation in 2007 with the same conditions as the Council proposed for 2006. Once the EFP has been conducted in 2007 it could be evaluated and considered for continuation in 2008. If, on the other hand, there is new information the Council is unaware of, then he would not recommend to move forward at this time, before reviewing that new information.

Mr. Helvey said there is no new information the Council is unaware of. However, in reference to Mr. Anderson's discussion, the Council originally recommended a one-animal cap for six marine mammal species, but NOAA Fisheries determined that there was scientific evidence sufficient to support these caps for only three of the six species for which the Council proposed caps. NOAA Fisheries informed the Council that if there was more than one take of the three species without caps they would conduct a review.

Ms. Petras said the three whale species for which the Council recommended caps, but NOAA Fisheries did not propose to implement, were fin, minke, and gray whales. This was because they have relatively high PBR thresholds and there is not a conservation concern sufficient to warrant a cap of one animal for each species.

Mr. Anderson asked about the caps the Council recommended. Ms. Petras reviewed the caps the Council recommended.

Mr. Anderson said he could not recommend the EFP for 2007 if he knew that NMFS had decided not to apply all of the marine mammal caps proposed by the Council.

Ms. Vojkovich noted that the Council does not have before it a description of what NMFS would do in response to a take of one of the three whale species for which the Council recommended caps that NMFS was not going to apply. In addition to asking NMFS to provide that information, she asked Mr. Anderson whether he was satisfied with NMFS's proposed response or could he not support the EFP without the application of caps for those three additional whale species.

Mr. Anderson said from his perspective, the caps on fin, minke, and gray whales were an important component of the Council's recommendation. If he knew NOAA Fisheries was not going to implement that recommendation he would not recommend the EFP for implementation in 2007.

Mr. Helvey said NMFS rejected those caps based on the scientific evidence. But they would consider those types of caps if there is an interaction. Mr. Anderson said he was not satisfied with the argument that the science supports some higher level of mortality for these species. That response does not address the public's concern about a fishery that has interactions with marine mammals at a level they find unacceptable. That acceptable level is different for everybody. It is not just a scientific answer.

Dr. McIsaac asked Mr. Helvey, if this Council did recommend the same caps as last year, would NMFS's response be the same as last year? Mr. Helvey said, in the interest of seeing the EFP go forward, he didn't think the agency would insist on removing these caps, especially given the points made by Mr. Anderson.

Ms. Fosmark said she didn't understand why the caps should be applied if it impeded gathering the necessary scientific information from the EFP. Without the EFP there may not be a fishery to gather the information and this fishery has been striving to stay under the limit for all takes. She supports the caps as planned by NOAA Fisheries to make this EFP possible.

Mr. Moore moved that the Council recommend that NOAA Fisheries grant the EFP for the drift gillnet fishery for the year 2007 under the same terms and conditions, including all of the marine mammal take restrictions recommended in March 2006, and that the results of the EFP be reviewed at the end of the 2007 fishery by our SSC and advisory bodies, and a report be made to the Council before any action taken in 2008. (Motion 4) Mr. Warrens seconded the motion.

Mr. Moore explained the long Council discussion in March. The Council proposed a reasonably conservative approach for this fishery, which made it practicable while addressing conservation concerns. He was disappointed in NOAA Fisheries' removal of the Council-recommended marine mammal caps. He asked Mr. Helvey to communicate to his superiors how strongly the Council feels about this issue. At the same time he thinks the industry is trying to avoid any sort of takes and recognizes that takes could jeopardize continuation of the EFP. At this point the Council has to trust NOAA Fisheries that they will follow the Council's recommendation. He said he is supportive of the motion and in good faith expects NOAA Fisheries to grant the EFP with the provisions set forth by the Council to conserve marine mammals.

Mr. Anderson said he supported the motion.

Mr. Myer said he would vote against the motion because he was not on the Council in March and did not know enough about the issue. Mr. Sones said he was in the same position in terms of not being fully informed on this issue. He pointed out that the tribes are concerned about avoiding bycatch too. For that reason he would not support the motion.

Mr. Helvey said he thought the Council's recommendation would be acceptable to NMFS in the interest of seeing this EFP go forward.

Mr. Cedergreen said he was at the March Council meeting and involved in the discussions, and did not vote for it then, and will not vote for it now.

Motion 4 passed. Messrs. Myer, Cedergreen, and Sones voted no.

Mr. Moore moved (Motion 5) that the Council adopt, as preliminary alternatives for a shallow-set longline EFP for 2007, alternatives 1, 2, and 3 shown in Agenda Item C.3.b, Supplemental HMSMT Report. Mr. Melcher seconded the motion.

Mr. Moore said there was a reasonable range of alternatives from no action to a variety of measures to protect sea turtles, allowing analysis of the potential impacts and sufficient information for the Council to determine whether to proceed with a recommendation.

Dr. Dave Hanson asked about a provision in alternative 2 (item #5) prohibiting the use of lightsticks, which testimony indicated would make the EFP not viable. Did Mr. Moore intend to allow the use of light sticks under this alternative? Mr. Moore said alternative 3, which incorporates measures from alternative 2, would allow the use of lightsticks. Ms. Fosmark offered a friendly amendment to change alternative 2, item # 5 to allow the use of lightsticks to reflect the intent of the maker of the motion. Both maker and seconder agreed.

Mr. Anderson asked the HMSMT if the EFP would generate enough information for future decision-making, given that only one vessel would be involved.

Ms. Culver said the HMSMT addressed that issue in their report under this issue in March. They concluded that one vessel participating in an EFP taking four trips would not all by itself give us enough data to convert drift gillnet to longline gear. She reminded the Council about the original EFP, described in the FMP, which proposed ten vessels participating. Mr. Dupuy (the applicant) resubmitted this proposal in 2005. The Council did not recommend the EFP on either of these occasions so Mr. Dupuy submitted the current proposal involving just one vessel. Mr. Anderson asked if the immediate objective was to determine whether this fishery is economically and/or logistically feasible and whether the EFP could satisfy this objective. Ms. Culver said Mr. Dupuy has heard from other drift gillnet holders that if he demonstrates the economic feasibility, their interest in participating in a longline fishery would be greater.

Ms. Vojkovich said she would not support the motion.

Mr. Helvey said NOAA Fisheries views EFPs as a way to gather scientific information and he didn't think this EFP would gather scientifically valid information on bycatch and other issues. But referencing an earlier comment by Mr. Melcher, this EFP is an initial step to determine whether the fishery is economically viable. Based on the results, a more scientifically robust EFP could be implemented in future years.

Motion 5 passed. Messrs. Thomas, Mallet, Cedergreen, and Ms. Vojkovich voted no. Mr. Myer abstained.

Dr. Dahl asked for reconfirmation that no further Council action is needed on their recommendation for the drift gillnet EFP for 2007. Mr. Melcher said that was his understanding. The Council concurred.

#### **C.4 Fishery Management Plan (FMP) Amendment 1: Overfishing Response for Bigeye Tuna (11/14/06; 2:02 pm)**

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

Dr. Dahl provided the agenda item overview. He also directed attention to Supplemental Attachment 3, an excerpt from the WPFMC's Pelagics Amendment 14.

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

Ms. Culver provided Supplemental HMSMT/HMSAS Report. Mr. Doug Fricke came forth to reflect a little bit of the conservation from the HMSMT/HMSAS meetings.

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

Ms. Kate Wing, NRDC, San Francisco, California

Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California

Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

##### **C.4.d Council Action: Adopt Final Preferred FMP Amendment Alternative**

Ms. Vojkovich asked whether or not there was a requirement for the Council to amend the FMP to address this issue.

Mr. Helvey said the notification letter said both the WPFMC and PFMC needed to take some action. NOAA Fisheries is currently reviewing an FMP amendment submitted by the WPFMC to address bigeye tuna overfishing Pacific-wide. Since bigeye is a single Pacific-wide stock, just a single plan amendment addressing overfishing Pacific-wide is necessary. For this reason the obligation for this Council to do something may not be necessary.

Mr. Feder said Mr. Helvey put it well. He said we are in an awkward position because of the statement in the original notification letter calling on both councils to take action. WPFMC has acted more quickly to develop an amendment addressing overfishing Pacific-wide. If that plan amendment is approved it would resolve the issue. Two plan amendments dealing with the same goal would not be necessary. That said, if the PFMC wants to go ahead and affirm what WPFMC is recommending by amending the HMS plan that is okay; if the PFMC wants to propose their own amendment, that is also okay, but would require an analysis to determine that the effect of the two plans is still sufficient to end overfishing.

Mr. Helvey discussed the evolution of WPFMC's Pelagics Amendment 14. Originally it did not address purse seine impacts in the Eastern Pacific Ocean, which are the main cause of overfishing. This Council then provided recommendations to the WPFMC to address overfishing in the EPO, which were incorporated into the amendment. Ms. Vojkovich asked Mr. Helvey if the PFMC recommendations were based on the IATTC staff recommendations for ending bigeye overfishing. He said yes, emphasizing that IATTC staff has the requisite expertise on tropical tunas. Amendment 14 incorporates their advice. He also pointed out that Council-managed fisheries catch very little bigeye, so it is not necessary to invest a lot of additional time on this issue and create more work than is necessary.

Ms. Vojkovich asked for confirmation that much of the excerpted portion of Amendment 14 (Supplemental Attachment 3) proposed a process for Council engagement in the international arena with respect to bigeye tuna overfishing and related issues. Mr. Helvey agreed and said he thought it important for the Council to set up those formal protocols. That is how overfishing will be ended. He pointed out the Council's letter to the IATTC GAC as a first step. Over time, this Council should implement a more organized process for interacting in the international arena.

Mr. Feder said the process WPFMC proposes in Amendment 14 does not have to be the process used by this Council.

Ms. Vojkovich asked why, if we endorse what is in Amendment 14, we wouldn't also endorse the process laid out there? Mr. Feder said if this Council wants to implement such a process, they should set up their own process. He does not view those processes as part of the plan that actually ends bigeye overfishing.

Mr. Sones asked whether the overfishing determination came from the international forum or domestically. Mr. Helvey said the determination of overfishing came out of the international forum in that it was based on an IATTC stock assessment report. Mr. Sones said he was concerned about disproportionately affecting domestic fisheries without effectively addressing the causes of overfishing at the international level.

Mr. Moore said his understanding is that if the Council took no action, we would in fact have responded to overfishing, because it is addressed through Amendment 14. At the same time, if we separately want to draw up our own plan on how we were going to interact with IATTC and other international bodies, we can do that as separate and distinct from addressing overfishing. Mr. Feder agreed with this assessment. Ms. Fosmark echoed Mr. Moore's comments.

Dr. McIsaac spoke to Supplemental Attachment 3 (Pelagics Amendment 14 excerpt), and asked if the Council's recommendations were included in that document on page 7, International Option 2. Dr. Dahl said yes, and reviewed the relation between the recommendations made at the April Council meeting and the current Amendment 14.

Ms. Vojkovich moved (Motion 6) that the Council use International Alternative 2, "end overfishing immediately," on page 7 of Agenda Item C.4.a, Supplemental Attachment 3 as an amendment to the Pacific Council's HMS FMP. Mr. Anderson seconded the motion.

Ms. Vojkovich said that although we don't have to amend the FMP, Amendment 14, International Alternative 2, ends overfishing and, as explained by Dr. McIsaac, includes the previous recommendations made by this Council. She also noted public comment about the fundamental need for the Council to be actively involved in issues relative to HMS as an equal partner with WPFMC. If we adopt this recommendation and implement it in our FMP, it accomplishes those objectives.

Mr. Melcher added that in the Supplemental HMSAS/HMSMT Report it states that Pelagics Amendment 14 International Alternative 2 would meet the objectives to end overfishing of BET. He supports the motion.

Motion 6 passed.

Ms. Vojkovich said that the issue of the process and protocol for PFMC involvement at the international level with these HMS issues hasn't been dealt with. We should consider the process set forth in the Pelagics Amendment 14 excerpt as a guideline for developing an operating procedure for this Council to use with bigeye and yellowfin under the next agenda item. Dr. Dahl pointed to proposed amendment language on page 8 of Attachment 1 that would authorize development of such a procedure.

Ms. Vojkovich said she was concerned about adding language to the FMP that would take an amendment to change. With that, Ms. Vojkovich moved and Mr. Moore seconded a motion (motion 7) to adopt Agenda Item C.4.a, Supplemental Attachment 3 as a standalone document so that the Council could change it more frequently than an FMP amendment and it would be on a different track than the FMP amendment. Motion 7 passed.

Ms. Vojkovich reiterated some of the comments Ms. Wing made about our commitment for working with the WPFMC and the fact that we have not been able to make that happen over the past few years. Since the next agenda item is yellowfin, we need to make that connection to WPFMC. However, we consider doing that, we need to do something concrete relative to that coordination in the next year.

Mr. Melcher moved (Motion 8) to adopt the housecleaning and language changes as identified in Agenda Item C.4.a, Attachment 2: Proposed Non-substantive Reorganization of the HMS FMP. Mr. Moore seconded the motion.

Motion 8 passed.

## **C.5 Yellowfin Tuna Status (11/14/06; 3:35 pm)**

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

Dr. Dahl provided the agenda item overview.

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

Ms. Culver provided Agenda Item C.5.b, Supplemental HMSMT Report. Dr. Bob Conrad provided Agenda Item C.5.b, SSC Report. Mr. Fricke provided Agenda Item C.5.b, Supplemental HMSAS Report.

### **C.5.c Public Comment**

Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California

### **C.5.d Council Action: Consider Stock Assessment and Possible Overfishing Implications**

Ms. Vojkovich asked about the discussion in Agenda Item C.5.a, Attachment 1 (NOAA Fisheries overfishing determination letter) regarding reference points. She said she knows the HMSMT has been planning to identify reference points. But based on this letter, is this something that the HMSMT should not work on because there is another, better mechanism? Mr. Helvey said he thinks what is important is to distinguish between temperate tuna (albacore and bluefin) and tropical tunas (bigeye and yellowfin). The SWFSC has expertise in the temperate tunas and their recommendation for these species is for this Council to evaluate and potentially adopt reference points that have been identified by RFMOs and international scientific bodies. The HMSMT should be tracking what is going on with temperate tunas and it is not clear to him that anything needs to be done for the tropical tunas. The SWFSC does not have a problem accepting what is proposed by the IATTC.

Ms. Vojkovich also asked about HMS-related meetings that are scheduled for the first quarter of 2007, specifically the IATTC GAC meeting in January and the IATTC meeting in February. She also wanted to know what NMFS's work plan is between this Council meeting and the next one in March.

Mr. Helvey said NMFS could distribute information about these upcoming meetings to Council members. With regard to NMFS participation in addressing yellowfin overfishing, they would like to work with the HMSMT and HMSAS, without the full burden falling on his staff. In a follow-up question, Ms. Vojkovich discussed Council engagement in these meetings, which could involve attendance by

HMSMT/HMSAS members at those meetings and then follow-up. Mr. Helvey said participation would be appropriate. Given that U.S. catch of yellowfin in the EPO is very low, he thought that the Council should primarily rely on IATTC staff scientists with respect to developing recommendations.

Mr. Moore raised the question of timing, based on the date of the notification letter. Doing something in one year from that date would require Council final action at the September 2007 meeting, while IATTC action will occur in June and the Council may only learn of it at their September meeting. He wondered how to coordinate these activities.

Mr. Helvey discussed the Council endorsing the IATTC scientists' recommendations and pushing those goals for ending EPO yellowfin overfishing at the international level as part of a plan amendment framework. This is similar to the process used for bigeye.

Mr. Moore asked if the Council response similar to what was done for bigeye, where the Council established some basic goals offered as recommendations to the IATTC, would be a sufficient response for yellowfin, in the form of a plan or regulatory amendment. Mr. Feder said that if the recommendations to be implemented were sufficient to end overfishing then the answer is yes. In a follow-up Mr. Moore asked about the significance of the June IATTC meeting, if Council recommendations will be based on staff scientists' advice. Based on past performance, he doubted the IATTC would adopt any measures to end yellowfin overfishing at its next meeting. Mr. Moore said his understanding was based on the HMSAS request that the Council defer action until after the June IATTC meeting so see what action they took.

Mr. Helvey said IATTC meets annually, and through a plan amendment perhaps the Council could take a more active role in engaging the IATTC, in particular by supporting IATTC staff scientists' recommendations.

Mr. Anderson referenced the discussion of yellowfin tuna in the WPFMC's Pelagics Amendment 14, asking about the conservation result. Mr. Helvey pointed out that Amendment 14 only addresses the WCPO yellowfin stock while this Council was notified about the EPO stock.

Noting that ceasing U.S. West Coast yellowfin catch would do nothing to end overfishing, Mr. Anderson asked how the Council would establish a framework to engage with the IATTC and WPFMC and whether regulations applicable to yellowfin fishing activity in the West Coast EEZ would be necessary.

Given the very low U.S. yellowfin catch, Mr. Helvey said that unilateral action is not advisable; instead this Council should work with the WPFMC to develop recommendations for the IATTC. Even though it doesn't have a role in eastern Pacific yellowfin, the WPFMC does participate in IATTC, and going to the IATTC with a joint statement could carry a lot of weight.

Mr. Sones asked when IATTC scientific staff recommendations would become available and how this would mesh with the Council process. He also sought confirmation that Council adoption of these recommendations would be sufficient. Mr. Helvey said he was unsure of the timing and discussed the upcoming February IATTC meeting. Mr. Sones hoped that the Council could get the staff recommendations in time to develop advice for the June IATTC meeting and wondered whether there would be sufficient time to meet the one-year statutory deadline for an FMP amendment. Mr. Helvey said he views this as an ongoing process with continuing advice to the IATTC.

Ms. Vojkovich recommended that the Council respond to the NOAA Fisheries determination letter, informing them that the Council will be providing advice to RFMOs. Furthermore, she recommended that Council staff and at least two members of our HMSMT and HMSAS attend the February IATTC meeting and the January GAC meeting. She would also try to attend these meetings as a Council

representative. After these meetings the HMSMT could start developing alternatives for an FMP amendment, with Council action later in the year.

Dr. McIsaac asked about the timing related to the statutory deadline; does the one-year clock start with the date on the letter or the day when the Council was informed, i.e., today? Mr. Feder said NOAA Fisheries interprets the one-year clock, which is the time frame for the Council to actually transmit their action, to begin with the date on the letter. Dr. McIsaac asked if NMFS considered that this Council bases its decisions on the scientific recommendations of its SSC with respect to stock assessments (which also inform the overfishing determination). Based on this process, was the October 25 letter date intended to cause the Council to miss the one-year deadline? Mr. Helvey said, not at all; the timing of the letter was only so it could be included in the November briefing book and it was submitted after NMFS had a chance to review the SSC's comments.

Mr. Anderson said the Council was notified today, and the timeline should not be based on when Council staff received the letter.

Mr. Helvey clarified that an FMP amendment would be required to address this issue.

Mr. Anderson pointed out that the notification letter says the Council may implement an FMP amendment or proposed regulations. Mr. Helvey argued that an FMP amendment is more appropriate in this circumstance, because domestic fisheries (which are subject to regulation) catch a negligible amount of yellowfin.

Dr. McIsaac reviewed the Council recommendations. He said Council staff will draft a letter to NOAA Fisheries describing the process for responding to overfishing in general terms. This will include attendance by the Council staff, a Council member, and two members from HMSAS and HMSMST at the February IATTC meeting. After that meeting, the HMSMT and HMSAS would meet to develop recommendations for Council consideration in time for the June Council meeting. The letter would also discuss a timeline for development of an FMP amendment. It may also describe possible components of the Council response, including the importance of international action and a focus on longline and purse seine fisheries.

Mr. Anderson asked about the budget implications of sending staff and HMSMT and HMSAS members to the GAC and IATTC meetings. Mr. Moore shared Mr. Anderson's concerns about the budgetary impacts. The Council could also write a letter to the U.S. Commissioners urging them to act vigorously in the IATTC arena.

The Council concurred with the guidance and Dr. Dahl said staff had sufficient direction.

## **D. Groundfish Management**

### **D.1 NMFS Report (11/14/06; 4:35 pm)**

Vice Chairman Dave Ortmann chaired Agenda Item D.1.

#### **D.1.a Activity Reports**

Mr. Frank Lockhart provided an update of regulatory activities since the last Council meeting. Agenda Item D.1.a, Attachment 1 is a list of Federal Register notices published by the Northwest Regional Office (NWR) from August 30, 2006 through October 25, 2006. The final rule for Amendment 18 was published on November 13. The NWR has not yet analyzed a fee system for the sablefish endorsement program and will look to the Alaska program as an example. NMFS expects a fee system will be

implemented by January 2008. The VMS rule for open access fisheries has not been finalized yet due to workload conflicts. Work is proceeding on this front and NMFS expects the VMS rule will be in place sometime during the spring of 2007.

Dr. Elizabeth Clarke provided an update of Northwest Fisheries Science Center (NWFS) activities. The NWFS held a workshop two weeks ago to discuss how to incorporate the new NWFS trawl survey results in stock assessments and a report will be forthcoming. The final canary rockfish catch estimates in the 2006 NMFS bottom trawl survey was 7.2 mt. The NWFS also has an informal meeting scheduled tomorrow to discuss the best format and content of new observer data reports.

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

None.

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

None.

#### **D.1.d Council Discussion**

None.

### **D.2 Groundfish Bycatch Work Plan (11/14/06; 4:50 pm)**

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

Dr. Kit Dahl provided the Agenda Item Overview.

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

Ms. Susan Ashcraft provided Agenda Item D.2.b, Supplemental GMT Report. Ms. Heather Mann provided Agenda Item D.2.b, Supplemental GAP Report.

#### **D.2.c Public Comment**

Ms. Karen Garrison, NRDC, San Francisco, California  
Mr. Ben Enticknap, Oceana, Portland, Oregon  
Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, California  
Mr. Peter Hutula, PMCC, Astoria, Oregon  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

#### **D.2.d Council Action: Adopt Final Groundfish Bycatch Work Plan**

Mr. Lockhart discussed some elements of the work plan, including provision for gear switching, which could be considered under the intersector allocation process, and improved data collection, analysis, and delivery. With regard to the latter, PSMFC is in the lead so it is not a subject of this work plan, but the Council could request a report at their September or November meeting. He was unsure about how to incorporate any changes to the work plan at this point.

Mr. Ortmann said the GAP asked for a flexible plan, and the document should explain how the work plan can be amended.

Mr. Anderson asked if there is a legal requirement for this bycatch work plan. Ms. Cooney said there is not; it is just a mechanism for determining how to implement Amendment 18.

Mr. Anderson discussed a planning process at his agency, pointing out that it is a huge task. He wondered how specific the work plan needed to be; pointing out that more specificity would require a lot more work. He said there are some additional Council activities that are not described in the work plan that could be added. He thought the Council has made bycatch mitigation a high priority, and related activities are only partially reflected in the work plan document. He discussed the desire to speed data delivery, and recent efforts to do so. He thought it was a good idea to have a more focused discussion of this objective. He said he was unsure of what to do going forward, especially with respect to providing more detail in the work plan. Based on public testimony, he thought there are additional activities that could be specified in the work plan matrix. With respect to data delivery, he suggested a meeting in the near future of Council, NMFS, and PSMFC staff to address concerns raised during public testimony. This could be built into the work plan.

Ms. Vojkovich agreed that, based on her experience, work planning can be time consuming. However, she is also frustrated by the lack of strategic vision. There may be a need in some instances to have a long-term plan, looking forward as far as ten years in order to address all issues that are of lower priority. Therefore, she is interested in a work plan that identifies decision points three to five years in the future. Also, the timeline does not reflect the various work load related issues needed to achieve objectives. She did not think that the biennial harvest specifications need to be in the work plan. It is a routine task, not something specific to bycatch mitigation. State responsibilities should also be identified; and lead agencies should be identified.

Mr. Anderson agreed the work plan should focus on bycatch minimization but felt that the groundfish harvest specifications process should be part of the consideration in order to identify potential workload bottlenecks.

Ms. Cooney pointed out that a number of bycatch mitigation measures, such as RCAs and trip limits, have been implemented through the harvest specifications process, so it can be considered part of bycatch minimization.

Mr. Lockhart agreed that the GMT and GAP comments need to be incorporated into this document.

Vice Chairman Ortmann asked if the Council is at the point where it could adopt this work plan, pointing out that it will need to be revised in the future as circumstances change.

Mr. Lockhart said that Council discussion has identified a few refinements to the work plan. He thought that along with input from his staff and Council staff these revisions could be made. He emphasized that the work plan needs to be flexible and would likely be subject to change. He discussed when any revisions stemming from Council discussion could be made; it would not be immediately.

Vice Chairman Ortmann said getting a final document to start with and building on that in the future, as necessary, would be a preferred process.

Mr. Melcher felt that the work plan should serve us, not be something that we serve. That implies flexibility to modify the plan going forward. He also asked that any changes include the March or April TIQ issue.

Mr. Anderson said this is going to be a guidance document, not a policy document. To the extent he can help in making some edits to the document, he would be happy to do that. He listed some specific initiatives that could be incorporated into the work plan: gear switching, bycatch caps, expedited data delivery, electronic logbooks, etc. A revised document could be distributed as an informational report in the March briefing book.

Mr. Moore suggested that there could be a connection between the bycatch work plan and the three-meeting outlook matrix used at each Council meeting. This would help integrate work plan elements into ongoing planning.

Mr. Lockhart thought this was a good idea, as long as it did not consume a lot of time at future Council meetings.

Dr. Dahl provided a brief summary of Council direction.

### **D.3 Groundfish Stock Assessments for 2007 (11/15/06; 8:10 am)**

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

Mr. John DeVore provided the agenda item overview.

#### **D.3.b Agency and Tribal Comments**

##### Tribal Comments

None.

##### WDFW Comments

Mr. Anderson identified three issues regarding 2007 groundfish stock assessments. The first issue concerned the planned spiny dogfish assessment. A transboundary assessment for this stock needs to be considered given the stock's distribution. In initial preparations for conducting this assessment WDFW staff encountered significant difficulties obtaining available age data and difficulty running these data in Stock Synthesis 2 (SS2), the accepted modeling platform for groundfish assessments. Given these impediments, he was recommending delaying this assessment two years until the next assessment cycle.

The second issue of concern was black rockfish. WDFW is recommending a separate stock assessment be done in the north by WDFW staff. This effort would replace that to do the spiny dogfish assessment.

The third issue was the planned updated assessment for yelloweye rockfish. He is concerned the 2006 assessment is not the best available science. There are many data issues requiring GMT and SSC deliberations as noted in the March 2006 statements from these advisory bodies. Washington recreational halibut data, which was analyzed in the 2006 assessment, but not incorporated in the final model, should be considered in the 2007 update. The SSC is recommending that sensitivity analyses using these data be brought to the SSC review next year. If these sensitivity analyses are compelling, then the SSC could recommend a full assessment be done and reviewed at the mop-up panel later in the year.

He asked Mr. Brian Culver to explain these data issues. Mr. Culver provided a brief PowerPoint presentation explaining how the 2006 assessment could be affected by inclusion of the recreational halibut CPUE time series and how lack of incorporation of these data resulted in the implausible stock distribution in the final assessment model. With only the bottomfish recreational CPUE data in the assessment to inform the abundance trend off Washington, an erroneous estimate of depletion is obtained. The decline in yelloweye CPUE in 1999 and 2000 was due to management action to reduce impacts on the stock (i.e., reduced bag limit and avoidance measures). A comparison of bottomfish and halibut data show opposite trends in the assessment.

Mr. Anderson explained these were the reasons he wanted to see the recreational halibut CPUE data analyzed in the 2007 assessment. This is a huge problem in that the "flawed" 2006 assessment will influence management through 2010. The terms of reference for updated assessments will not allow new

data sources and this procedural violation could create a management crisis in Washington that may not be resolved until 2011.

#### NWFSC Comments

Dr. Elizabeth Clarke and Dr. Jim Hastie provided comments on the process from the NMFS Northwest Fisheries Science Center perspective.

Dr. Clarke highlighted the recommendations from the “post-mortem” stock assessment workshop that was held in January and stated their proposed plan for the stock assessment review process (Agenda Item D.3.b, NWFSC Report) was consistent with these recommendations.

Dr. Clarke commented on the request for a full yelloweye assessment in 2007. Last year there were two full assessments done for this stock. WDFW staff cannot do a full assessment next year, which is a complicated task. The NWFSC does not have adequate staff resources to do more than an updated assessment of yelloweye. If another agency or entity can be identified to do a full assessment next year, there is available time to review it in next year’s proposed STAR panel schedule. Mr. Moore said the SSC is recommending a slightly revised STAR panel schedule than the tentative one proposed by the NWFSC. Can the NWFSC accommodate this revision? Dr. Clarke said they could except for the WDFW request to switch panels 2 and 3. This will not work since Dr. John Field, the lead author on the chilipepper assessment scheduled for review during panel 3, will be on a research cruise during the scheduled time for panel 2.

#### CDFG Comments

Ms. Vojkovich provided CDFG comments on 2007 assessments. She referred to Agenda Item D.3.b, CDFG Report which summarized their proposal to do a blue rockfish assessment next year. They have the staff resources to do this assessment and recommend it since blue rockfish is an important species in their nearshore commercial and recreational fisheries.

#### ODFW Comments

Mr. Melcher did not have any comments on the 2007 assessments but he did have a question for Ms. Vojkovich. He asked her if the proposed blue rockfish was only for the portion of the stock in waters off California and Ms. Vojkovich said yes.

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

#### SSC

Dr. Robert Conrad provided the SSC report on 2007 groundfish stock assessments.

Dr. McIsaac stated one reason cited for rejecting the Washington recreational halibut CPUE time series in the yelloweye assessment was lack of model convergence when these data were incorporated. Did the SSC agree with this justification? Dr. Conrad said lack of model convergence was not a valid reason for rejecting these data. The SSC is recommending sensitivity analyses using these data be provided to the SSC next year when they review the update. Mr. Myer asked if these data were in the 2006 assessment and Dr. Conrad said he wasn’t sure. Mr. Anderson remarked those data were in the assessment. Mr. Anderson noted cowcod data issues are recommended to be resolved in the 2007 assessment. How does this differ from the yelloweye data issues? Dr. Conrad answered the data in question was in the 2006 cowcod assessment, but is being corrected in the 2007 assessment. The SSC is encouraging yelloweye data analyses be provided next year, but formal incorporation of these data in the assessment is out of bounds in an update. Mr. Lockhart asked what happens if the yelloweye assessment goes to the

mop-up panel and Dr. Conrad said it could then go forward and be reviewed as a full assessment. Dr. Clarke asked how many full assessments the Council wants to consider next year? The other issue is staff resources. She reminded the Council that the NWFSC does not have the staff resources to do anything more than a pure update for yelloweye. The terms of reference also say updates that are recommended to go to a full assessment go to the next cycle, not the mop-up panel. The SSC recommendation for yelloweye goes against the terms of reference.

Ms. Vojkovich noted the SSC was willing to accommodate the GMT and GAP attendance at update reviews and rebuilding analysis reviews. Are both updates and rebuilding analyses scheduled for review at the mop-up panel? Dr. Conrad said no, only the rebuilding analyses are scheduled for review at the mop-up panel.

Mr. Anderson noted that Oregon staff provided a combined bottom-fish-only (BFO)/ Pacific halibut CPUE time series in the current yelloweye assessment, while Washington stratified by trip type. Can Washington provide an improved CPUE time series that combines BFO and Pacific halibut trips in the updated assessment? He added this is not different than the cowcod example and he would like a consistent approach. Dr. Conrad explained the SSC stance on this issue is contained in their statement.

#### GMT

Ms. Ashcraft provided Agenda Item D.3.c, Supplemental GMT Report.

#### GAP

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

Mr. Moore asked if the GAP would be willing to meet on Sunday prior to the Council meeting when updated assessments are considered and Ms. Mann said it would be acceptable if there were no other conflicting meetings.

#### **D.3.d Public Comment**

Mr. Rhett Weber, Westport Charterboat Association, Westport, Washington

#### **D.3.e Council Action: Adopt Final List and Schedule of 2007 Groundfish Assessments**

Mr. Anderson asked Dr. Clarke if she accepted the list of proposed stock assessments and the STAR panel schedule recommended by the SSC and she said yes. He noted that WDFW staff could also accommodate this schedule.

Mr. Moore asked Dr. Clarke if she accepted the SSC recommendation to review rebuilding analyses at the mop-up panel and Dr. Clarke said yes. This was the process used last cycle and the Terms of Reference does require the SSC to review rebuilding analyses.

Dr. McIsaac asked when the yelloweye update assessment would be reviewed and Dr. Hastie said the SSC was planning to do this during the June Council meeting.

Mr. Melcher asked if there was general support for including Washington recreational Pacific halibut data in the proposed yelloweye assessment and Dr. Clarke said only if it was a full assessment. She said including these data complicates the assessment because that data had not been included previously. It would take a lot of effort to get the assessment model to converge properly with these data. Without NWFSC resources to do a full assessment, someone else would have to volunteer to do this. Dr. Hastie added a full assessment also requires a more rigorous review. Mr. Cedergreen said that we need to

consider the human element here. We have a system that encourages avoidance of a weak stock and unfortunately the resulting lack of fishery-dependent data is being used to show a stock decline. This process provides an incentive for fishermen to fish harder on a weak stock. Mr. Anderson said he is not recommending a full assessment. He simply wants to include a combined BFO/Pacific halibut CPUE time series through 1999 in the assessment. He volunteered staff support. Mr. Anderson asked if inclusion of these data was the intent of the SSC-recommended sensitivity analyses and Dr. Clarke said yes. According to SSC advice, if these sensitivity analyses compel the need for a full assessment, a plan to develop one and set up a review panel should be produced after the June Council meeting. Dr. McIsaac said the draft response from the Technical Subcommittee (of the Canada-United States Groundfish Committee), who were requested to consider a process for an international yelloweye assessment, thought it unnecessary to convene a January meeting and will discuss this at their April meeting in Santa Cruz. Dr. Clarke said if they are discussing this in April, there is zero chance that their recommendations can be included in the assessment update scheduled for a June review.

Mr. Moore moved and Mr. Anderson seconded a motion (Motion 9) to adopt the revised 2007 STAR panel schedule and the list of stock assessments recommended in Agenda Item D.3.c, Supplemental SSC Report, with the understanding that the SSC's Groundfish Subcommittee meeting will review the updated assessments around the June 2007 Council meeting at a time convenient for the GMT and GAP. Also included in the motion are the review of rebuilding analyses to occur during the "mop-up session" in October 2007; and the discussion items regarding yelloweye updates, data needs, and the agreement between the NWFSC and the state of Washington.

Motion 9 passed.

#### **D.4 Exempted Fishing Permits for 2007 Fisheries (11/15/06; 1:41 pm)**

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

Mr. John DeVore provided the agenda item overview.

Ms. Cooney said she discussed a conflict of interest issue with Ms. Fosmark. Ms. Fosmark's husband is one of the applicants in one of the chilipepper exempted fishing permits (EFPs). Therefore, Ms. Fosmark will not be discussing or voting on this EFP. If the Council has questions of her on this EFP, she is available to respond. If the Council considers each EFP separately, she can discuss and vote on the other EFPs.

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

###### GMT

Ms. Ashcraft provided Agenda Item D.4.b, Supplemental GMT Report.

Mr. Melcher asked for an elaboration of the GMT recommendation to convene a federal/state/industry work group to determine the shoreside whiting EFP requirements beyond status quo. Mr. Mark Saelens stated the need for managers, fishermen, and enforcement folks to work out any new EFP requirements needed to transition into Amendment 10 rulemaking.

Mr. Moore noted the GMT and GAP have developed an extensive EFP process, which is codified in the Council Operating Procedures. He asked whether the late submission of The Nature Conservancy (TNC) EFP application compromised a full review and Ms. Ashcraft said yes. He asked whether it was her understanding TNC would follow the proper process next year and she said yes.

Ms. Vojkovich asked if the GMT discussed the concept of EFP applicants funding observers and Ms. Ashcraft said the GMT discussed this with EFP applicants, but two of the applicants have yet to commit to these costs.

Mr. Melcher asked if the GMT's scorecard projection accounts for the trawl permits bought out by TNC and Ms. Ashcraft said no. Mr. Myer noted the GMT discussed the canary impacts associated with the TNC EFP application. He asked if the other EFP bycatch caps and impacts might cause problems with OY management and Ms. Ashcraft said no.

Ms. Vojkovich asked if the conclusions in the first paragraph of the GMT statement are now incorrect given the inseason actions decided under agenda item D.5 and Ms. Ashcraft said yes.

Ms. Vojkovich asked if TNC impacts are included in the scorecard estimates for the limited entry trawl fishery and Mr. Burden said no.

Mr. Lockhart asked if the chilipepper EFPs were valid experiments and can expected results be potentially applied fleet-wide. Ms. Ashcraft said she was uncertain these EFPs are valid experiments. Mr. Burden added there is some desire to supplement available bycatch information south of 40°10' N latitude. Mr. Myer asked, if the chilipepper EFPs were implemented and eventually applied fleet-wide, would this attract more open access effort and Ms. Ashcraft said it probably would given the historical interest in targeting chilipepper prior to implementing RCAs and other more stringent management measures.

Mr. Anderson asked if new observer data was expected this winter which would change limited entry trawl impacts in the scorecard and Mr. Burden said yes.

#### GAP

Ms. Mann provided Agenda Item D.4.b, Supplemental GAP Report.

Mr. Moore asked if the GAP supported creation of a federal/state/industry work group for designing the shoreside whiting EFP and Ms. Mann said yes, the GAP recommendation on this is provided under their Amendment 10 statement (Agenda Item D.6).

Mr. Moore asked which version of TNC EFP application did the GAP review and Ms. Mann stated it was the initial draft. Mr. Moore said it was his understanding the GAP does not support the TNC proposal because of the late submission timing and Ms. Mann said that was correct. Ms. Vojkovich asked if the GAP recommended deciding the gear-switching (TNC) proposal in a stand-alone process or within the trawl Individual quota (TIQ) process and Ms. Mann said in the TIQ process.

Mr. Lockhart asked if the GAP was confident the chilipepper EFP applicants could fish cleanly. Ms. Mann said the applicants are confident, but the GAP is skeptical the results of this EFP can be applied fleet-wide.

#### **D.4.c Public Comment**

Mr. Michael Bell, The Nature Conservancy, Los Osos, California

Mr. Chris Kubiak, fisherman, Los Osos, California

Ms. Meghan Jeans, for NRDC and The Ocean Conservancy, San Francisco, California

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

#### **D.4.d Council Action: Approve Final Recommendations to NOAA Fisheries**

Ms. Vojkovich voiced concern with approving the chilipepper EFPs without the applicants confirming their intent to fund observers and implement EFP activities. She is also concerned with the additional requirements to keep the gear off the bottom. She does not believe these results can be applied fleet-wide and therefore not sure she could support these EFPs. Mr. Melcher said he supports the general objectives of these EFPs, but he considered it too difficult to reallocate the additional canary impacts. Ms. Vojkovich said the chilipepper EFP impacts are captured in the bycatch scorecard and Mr. Melcher said a canary buffer will be needed to manage directed fisheries next year. Mr. Lockhart concurred and added there are additional workload costs to implement an EFP. There is a need to balance benefits and costs and the Council needs to decide if there are enough benefits to support these EFPs. He thought the costs outweighed the benefits. He was also concerned that the TNC proposal came forward too late for adequate evaluation. Therefore, he does not support the chilipepper or TNC EFPs, but he does support the shoreside whiting EFP.

Mr. Myer said Mr. Brown testified about the end game of an EFP and we don't know the end game of the chilipepper EFPs. Mr. Cedergreen agreed. Applying the bycatch rates determined by the EFP bycatch caps to the entire fleet results in a lot of bycatch. Mr. Moore said the chilipepper EFPs went through a formal review process and the applicants are willing to work with the Council. However, the bycatch concerns are potentially big costs and therefore, these EFPs could be dismissed without prejudice. He advised the applicants to design a better experiment. The TNC EFP is not urgent and did not go through a formal evaluation process. He believed we could learn the same things through the West Coast Groundfish Observer Program.

Mr. Melcher moved and Mr. Warrens seconded a motion (Motion 12) to adopt the 2007 shoreside whiting EFP as detailed in Agenda Item D.4.a, Supplemental Attachment 4; and additionally that we form a federal/state/industry working group to help in the development of that EFP to better transition into Amendment 10 implementation.

Motion 12 passed.

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 13) to tentatively approve the TNC EFP pending further development and review at the March Council meeting.

Ms. Vojkovich said she values the bycatch reduction objective in the TNC proposal and this may provide some non-agency money to learn something new. The TNC proposal also has some community socioeconomic benefits which outweigh the costs. However, she does want more details of the proposal fleshed out before considering final approval in March.

Motion 13 failed.

Mr. DeVore summarized that the shoreside whiting EFP is the only one recommended for 2007.

#### **D.5 Consideration of Inseason Adjustments (11/15/06; 9:59 am)**

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

Mr. John DeVore provided the agenda item overview.

## **D.5.b Report of the Groundfish Management Team**

### GMT

Ms. Susan Ashcraft and Mr. Merrick Burden provided Agenda Item D.5.b, Supplemental GMT Report.

Mr. Moore noted there was a similar petrale sole overfishing concern in 2004 or 2005 resolved by voluntary reductions by processors. Mr. Burden said this occurred last year and the market limits imposed by processors caused an immediate reduction of petrale sole landings. Regardless, we still experienced petrale sole overfishing in 2005, but the catch overage was more severe then. Dr. McIsaac said there is national guidance to end overfishing. Was last year's conclusion based on final observer information? Mr. Burden said no, the conclusion is based only on landings of petrale sole, which were in excess of the specified ABC. Dr. McIsaac asked if there was any probability associated with any risk of overfishing petrale sole this year and Mr. Burden said no, there was no data available to assign a probability.

Ms. Vojkovich asked for an explanation of Table 1 in the GMT report. She asked if the "Spex EIS" impacts are based on 2007 management measures and Ms. Ashcraft said yes. She asked if the canary impact problem resulted from a higher than expected research catch of canary and Ms. Ashcraft said yes. She asked where in Table 1 is the guidance on what to do. Ms. Ashcraft explained the "Nov 06" column in Table 1 represents the best current impact projections. Ms. Vojkovich asked why the estimated impacts in recreational and whiting fisheries, as shown in Table 1 footnotes, are less than what is depicted in the bycatch scorecard. Ms. Ashcraft explained the footnotes show the point estimates of 2006 impacts and the scorecard depicts the recreational harvest guidelines and the whiting fishery bycatch caps, respectively. Ms. Vojkovich asked if the canary bycatch reduction scenarios are relative to the "Spex EIS" or "Nov 06" impact projections and Ms. Ashcraft said the latter. Only non-tribal directed groundfish fisheries are affected. Mr. Lockhart asked if the GMT carried forward the 2006 research catch of canary and Ms. Ashcraft said yes. Mr. Lockhart asked if the 2007 projections represent a mix of projections, harvest guidelines, and bycatch caps and Ms. Ashcraft said yes. He asked if this mix was carried forward in all the Table 1 columns and Ms. Ashcraft said yes.

Mr. Anderson noted there were four reasons provided for the low risk of exceeding the petrale sole ABC this year. A lack of migration into the petrale fishing areas was cited by the GAP. Mr. Burden agreed with that observation, although he expects this migration will take place sometime during period 6 (November and December). The timing of this migration and weather conditions will be important factors. Mr. Anderson said additional crab tests will be done to determine the start date of the crab fishery. He asked if the GMT was assuming there would be a December 1 start to the crab fishery and Mr. Burden said yes. Mr. Anderson said there was a late start to the crab fishery last year, which is not likely to happen this year. He asked if a December petrale sole trip limit reduction would work to mitigate risk of overfishing and Mr. Burden said no.

Mr. Anderson asked about the last three years of canary rockfish research catches and Dr. Hastie said he would look that up.

Mr. Moore said the quota species management (QSM) report shows lower petrale sole landings in the last two weeks. He asked if this was due to inclement weather and Mr. Burden said yes, landings have been lower than projected due to poor weather.

Mr. Moore said the GMT is asking for guidance on how to reduce canary impacts. He asked about the work load associated with the most Draconian alternative (alternative 4). Ms. Ashcraft said there would be lots of work associated with implementing associated regulations into a final rule. Mr. Moore asked Ms. Cooney how hard it is to reduce harvest guidelines, bycatch caps, etc. now and then consider more liberal regulations next March. Ms. Cooney said we would need the regulations now to reduce projected

canary impacts. Mr. Lockhart added these changes could be incorporated into a final rule now and could be reconsidered in March.

Dr. McIsaac said that under rebuilding, canary research impacts are expected to increase. He asked if the current research projections are the highest estimates and Ms. Ashcraft said yes.

#### **D.5.c Agency and Tribal Comments**

##### Tribal

None.

##### ODFW

Mr. Melcher briefly referred to Agenda Item D.5.c, ODFW Report and stated Oregon was asking for conforming federal regulations to prohibit cabezon in the Oregon recreational fishery.

##### WDFW

None.

##### CDFG

None.

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

Ms. Mann provided Agenda Item D.5.d, Supplemental GAP Report.

Mr. Moore asked if the GAP agreed with the GMT recommendation for the 2006 daily-trip-limit (DTL) fishery and Ms. Mann said the GAP did not discuss this.

Mr. Moore remarked that Oregon trawlers are reporting slow petrale sole fishing due to lack of migration and poor weather. Is this true? Ms. Mann said this has been the case off Oregon and California. Dr. McIsaac asked if the GAP discussed the risk of petrale sole overfishing and Ms. Mann said no, there is no quantitative information, only qualitative. The GAP did discuss fishermen and processor cooperation to reduce catch if needed. Ms. Fosmark asked if the GAP discussed the socioeconomic importance of the petrale sole fishery and Ms. Mann said this is a continuing theme in the GAP. Ms. Fosmark asked if the GAP discussed rockfish bycatch in the petrale sole fishery and Ms. Mann said no.

Mr. Melcher asked if the GAP is recommending DTL decreases throughout the north and Ms. Mann said yes.

#### **D.5.e Public Comment**

Mr. Michael Okoniewski, Pacific Seafoods, Woodland, Washington

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

Mr. Marion Larkin, Trawler, Mt. Vernon, Washington

Mr. Daniel Waldeck, Pacific Whiting Conservation Cooperative, Portland, Oregon

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

#### **D.5.f Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2006 and 2007 Fisheries**

Mr. Myer requested the bycatch impacts in the 2005 whiting fishery and Mr. DeVore said he would look up this information.

Mr. Lockhart requested the GMT produce new 2007 bycatch projections using a consistent methodology rather than the mix of projections, harvest guidelines, and bycatch caps provided in their report. He also asked if there were any fisheries scheduled between now and March that would cause a significant canary rockfish bycatch concern. Mr. Burden said the petrale fishery and some slope trawl fishing are expected for the remainder of this year and he could not think of any high volume fisheries in the first part of next year that would cause a canary concern.

Mr. DeVore answered Mr. Myer's question regarding the estimated bycatch by species in the whiting fishery. The total canary impacts in the whiting fishery last year, including those in the tribal sector, were 3.9 mt. Mr. DeVore went on with a sector-by-sector account of estimated canary rockfish bycatch in last year's whiting fishery.

Mr. Melcher asked Mr. Lockhart if his request to the GMT restricted the projection analysis. Mr. Lockhart said there were no constraints in his request; he simply wanted a consistent projection methodology.

Mr. Moore asked Mr. DeVore to provide the estimated canary bycatch in the 2004 whiting fishery and Mr. DeVore complied with a sector-by-sector breakdown. Mr. Moore noted there has been significant variation in canary bycatch by whiting sector and year. He asked if the same random variation of widow and darkblotched rockfish bycatch has been observed by sector and year in recent whiting fisheries and Mr. DeVore said that is true.

Mr. Anderson moved and Ms. Vojkovich seconded a motion (Motion 10) to adopt the GMT recommendations 2, 3, 4, and 5 in Agenda Item D.5.b, Supplemental GMT Report as final inseason management adjustments.

Mr. Anderson said these recommendations make perfect sense, are well thought out, and designed to keep fisheries' impacts within the OYs. Mr. Moore supported Mr. Anderson's motion and added that the GMT recommendations also prevent overfishing.

Motion 10 passed.

Mr. DeVore said there is the matter of how to resolve the petrale sole and canary issues. The GMT would appreciate guidance.

Mr. Anderson said he was comfortable that the 2006 petrale sole ABC would not be exceeded. He understands now that the 1,000 mt of petrale sole taken during one period in 2003, as referenced in the GMT report, was taken in period 1, not period 6. He asked Ms. Cooney if NMFS has the ability to close the trawl fishery if there was indication the petrale sole ABC might be exceeded. Ms. Cooney said that ability rests on the availability of timely catch information. Ms. Yvonne de Reynier said NMFS would have to monitor catch and implement a closure with a Federal Register (FR) notice. Because it is an inseason action, it would be effective the date it is published in the FR. The FR asks that items do not come in after December 15 for the 2006 calendar year. Mr. Anderson asked if it was safe to assume a two week lag in the QSM report and Ms. de Reynier said yes. Mr. Anderson said by the beginning of December catches through mid- November will be available and there is a precautionary trip limit in place for December. Therefore, by December 1, it will be easier to assess the risk of overfishing petrale sole this year. Ms. de Reynier said the Council should specify a December 1 trigger for NMFS to close

the fishery two weeks early if needed. Mr. Lockhart said Council direction would be helpful, but he needs to discuss that with his staff and decide an inseason action or mechanism on Friday under Agenda Item D.8.

Mr. Anderson thought the GMT and NMFS should attempt to determine the most reasonable research projection and wait until March to adopt new management measures to decrease the canary rockfish harvest rate. Mr. Lockhart thought the GMT should present projections for all fishing sectors and disregard specified harvest guidelines and bycatch caps. Mr. Anderson said he was uncomfortable using 2006 as the sole year for projecting 2007 impacts and Mr. Lockhart said he had no problem with Mr. Anderson's guidance. Mr. Melcher thought any impact projections would be highly uncertain and Ms. Vojkovich recommended using the impact projections from the 2007-2008 Specifications EIS.

Mr. Lockhart requested the GMT to review the whiting trip limits outside the primary season and the associated bycatch impacts and report back to the Council on Friday.

Mr. Anderson provided a recap of the issues discussed. The GMT recommended projecting the 2006 research estimate of canary rockfish (7.5 mt) for 2007 research fisheries rather than the 3.0 mt used in the EIS. The Council's challenge this week is to decide a suite of 2007 management measures that are projected to stay within the 2007 OYs by Friday.

Mr. Moore asked Ms. Cooney whether it was true that recreational harvest guidelines cannot be changed through an inseason action and that point estimates of impacts in the recreational fishery are typically less than the specified harvest guidelines. Ms. Cooney said both statements were correct. This process differs from the specification of whiting fishery bycatch caps, which can be changed in an inseason action.

Mr. Lockhart asked if the best available point estimates of sector catches are projected to be under the 2007 canary OY and Ms. Ashcraft said that is correct. Mr. Anderson and Mr. Melcher were not comfortable replacing the recreational harvest guidelines in the 2007 bycatch scorecard with impact point estimates from the EIS. Mr. Moore said the scorecard is simply a bycatch accounting document, not a regulatory document. Since harvest guidelines cannot change inseason, simply show the projected impacts associated with specified management measures and exclude the specified harvest guidelines in this exercise.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (motion 11) to direct the GMT to provide a revised canary scorecard with the best estimates and projections of canary mortalities that would occur in each of the sectors listed on Table 1 of the GMT report. The revised numbers would not replace any specified harvest guidelines and the Council would revisit this issue as needed next March.

Mr. Lockhart concurred with Mr. Anderson's comments. He is comfortable the regulations in place for January 1, 2007 will not exceed the 2007 canary OY based on the best information available to us today. Mr. Anderson said this motion does not include a recalculation of the bycatch cap of the whiting fishery.

Motion 11 passed.

## **D.6 Shore-Based Whiting Monitoring Program**

### **D.6.a Agenda Item Overview (11/16/06; 8:17 am)**

Ms. Laura Bozzi provided the agenda item overview.

### **D.6.b NMFS Report**

Ms. Yvonne deReynier presented Agenda Item D.6.b, Supplemental NMFS Power Point Presentation.

Responding to a comment from Ms. Vojkovich, Ms. deReynier noted that she is not sure how overages, which are retained and landed under maximized retention, would be dealt with. If the states do not still receive the overages under the new program, a federal mechanism for dealing with them needs to be established because one does not exist now.

#### **D.6.c Agency and Tribal Comments**

Mr. Melcher said ODFW feels strongly about the need to move quickly on transitioning this from a fishery operating under EFPs and into one under federal regulations. Mr. Anderson concurred with Mr. Melcher's concerns. Ms. Vojkovich stated that she wants to make sure that the state issues were dealt with in this process.

#### **D.6.d Reports and Comments of Advisory Bodies**

Ms. Ashcraft provided Agenda Item D.6.d, Supplemental GMT Report. In this report, the GMT proposes that the Council convene a workgroup to develop a hybrid alternative, and that this alternative is then included within the Environmental Assessment analysis.

Ms. Mann provided Agenda Item D.6.d, Supplemental GAP Report. Mr. Moore asked Ms. Mann for the GAP's perspective on the GMT's proposal of a hybrid alternative. Ms. Mann replied that the GAP had been discussing how a combination of cameras and observers could be more feasible than using only one of those two, as is proposed under the current alternatives.

#### **D.6.e Public Comment**

None.

#### **D.6.f Council Action: Adopt Alternatives and Draft Regulations for Analysis and Public Review**

The Council began discussion on the proposal to convene a workgroup to develop a hybrid alternative. Ms. Cooney clarified that the new alternative would have to be completed by the proposed date of January 22 to allow for its adequate analysis prior to the March meeting, when the Council is to take final action. If the analysis is not done by March, the Council can still adopt the hybrid alternative, but it would then be taken without the support of analysis. This would require NMFS to make a greater effort after the March meeting to analyze the Council's decision, which would slow down the process.

In discussion on funding of the monitoring, Ms. deReynier explained that under the federally funded alternative, the observer pool would not be expanded to accommodate the addition of the shoreside whiting fleet. So, observers would be drawn away from observing the non-whiting fleet. Mr. Anderson replied that then we would no longer meet our monitoring objectives relative to the limited entry trawl fleet, so that alternative in his opinion is not realistic to implement in 2008. Mr. Lockhart responded that the alternative also includes possibility of observers funded by industry, and that NMFS is looking to secure a budget to support the monitoring program but that the probability of getting these funds is low. Ms. Cooney agreed that the Council should not go forward planning on a federally funded observer program, given that such funding is not guaranteed. Still, she supported the analysis of this alternative. Based on this, Mr. Anderson questioned including federal funding of the program as an alternative for analysis. He does not want to mislead the public into supporting an alternative that is not realistic. Dr. Hanson was in favor of analyzing federal funding, and suggesting that the analysis would demonstrate the low probability of it being a feasible alternative. From his experience, he suggested that the analysis could also show that the federally funded alternative is more expensive.

Clarification was made by Mr. Melcher with respect to the motion passed under Agenda Item D.4 to establish a workgroup. That motion included actions on both EFPs and on the shoreside whiting monitoring program alternatives. This would be an ad hoc group. Though it is important to work on the EFP issues, in light of Ms. Cooney's comments, the workgroup's priority should be to develop the hybrid alternative. Dr. McIsaac questioned how the Council would approve for analysis the hybrid alternative, once developed. There is a quick response procedure for action between Council meetings, but this has many drawbacks. Alternatively, the Council could state at the beginning that they do not want to review the alternative before it is analyzed and delegate that decision to the workgroup. Discussion clarified that the hybrid alternative would fall within the range of alternatives 3 and 4. This alternative would be brought to the Council in March and considered when the Council takes final action.

Ms. Vojkovich moved (Motion 16) that the Council send out for analysis the range of alternatives contained in Agenda Item C.6.b, Attachment 1 and send forward the proposed workgroup to develop the specifics of an alternative that blends parts of alternative 3 and alternative 4 to be presented to the Council at the March meeting. Ms. Fosmark seconded the motion.

Speaking to her motion, Ms. Vojkovich said it includes the analysis of the alternatives, which is to be presented in March, and that the Council does not have to see the blended alternative prior to the March meeting. The workgroup should use the details from this discussion and the GAP and GMT statements to support their work.

Mr. Anderson said he wanted to be certain the range of alternatives would provide enough flexibility for the workgroup to develop a hybrid alternative that considers: a range of observer coverage levels; whether or not electronic monitoring is required; who is going to pay for the observers (Federal, industry, or a combination of the two). He also wanted the workgroup to clearly identify any state and/or Federal responsibilities associated with the hybrid alternative and for the workgroup to have the latitude to discuss electronic fish ticket versus the status quo paper fish tickets. Lastly, he said that he would like there to be flexibility for the workgroup to discuss whether the observers are Federal or state employees both at sea and at the plant. For example, there may be cost savings in using monitors other than Federal observers. Chairman Hansen responded that these considerations are encompassed within the motion.

Ms. Fosmark asked that the environmental assessment pay particular attention to specific comparative costs among alternatives.

Mr. Lockhart said that the Enforcement Committee had requested to participate in the workgroup. Chairman Hansen said they would be included.

Motion 16 passed.

The committee membership was then set on Friday under Agenda Item B.5.

## **D.7 Intersector Allocation for Trawl Individual Quotas and Other Management Needs**

### **D.7.a Agenda Item Overview (11/16/06; 10:15 am)**

Mr. DeVore provided the agenda item overview.

### **D.7.b Recommendations of the Groundfish Allocation Committee**

Mr. DeVore briefed the Council on recommendations of the Groundfish Allocation Committee (GAC) from their October 18-19, 2006 meeting as captured in Agenda Item D.7.b, Attachment 1.

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

There were no state or federal agency comments.

#### Tribal Comments

Mr. Sones said the tribes will work with NMFS to consider formal treaty: non-treaty allocations. Tribal staff will provide projected tribal catches for the intersector allocation EIS. He also stated there was an error in Table 2F (in Agenda Item D.7.a, Attachment 1) regarding the 2002 data. Mr. DeVore said he will work with Messrs. Jones and Sones to get the correct numbers.

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

#### GMT

Ms. Ashcraft and Mr. Burden provided Agenda Item D.7.d, Supplemental GMT Report which focused on approving the preliminary range of alternatives developed by the GAC for analysis and public review; and incorporating the exploration of a sliding scale approach into the analysis; and Agenda Item D.7.d, Supplemental GMT Report 2 which focused on a priority list for the GAC's December 2006 meeting.

Dr. Dave Hanson asked for an explanation of the sliding scale allocation scheme proposed by the GMT and Mr. Burden said the GMT was envisioning the possibility that some target species may be constraining in the future. Sliding scales provide management flexibility. Mr. Lockhart asked if the allocations might change annually under this scheme and Mr. Burden said that was possible. Mr. Anderson provided a lingcod example to illustrate the point. When the stock was overfished, the OY was limiting. Now there are abundant lingcod and a fixed allocation may not be feasible. The Council could consider a roll-over mechanism. He recommended the Council design allocations with a five-year horizon. Periodic review of allocations may take care of this issue.

Mr. Myer asked if the GMT discussed buffers or set-asides and Ms. Ashcraft said yes. If every last fish is allocated in this process, there is a risk of lost management flexibility. A yield reserve could buffer against unforeseen calamities such as catch overages in any one sector. This yield reserve would be in addition to the listed set-asides in the GAC report.

#### GAP

Ms. Mann provided Agenda Item D.7.d, Supplemental GAP Report.

Mr. Melcher asked if the GAP was unanimous in recommending removal of alternatives 4 and 8 and Ms. Mann said yes. Mr. Melcher asked if the justification for this recommendation is to not use the bycatch scorecard in developing an allocation scheme and Ms. Mann said yes. The GAP is philosophically opposed to using the scorecard for allocation purposes since it punishes sectors that have reduced bycatch.

Ms. Vojkovich noted current sablefish allocations are based on the OY north of 36° N latitude. She asked if the GAP discussed sablefish allocation south of 36° N latitude and Ms. Mann said she was not aware of any such GAP discussion.

### **D.7.e Public Comment**

Mr. Peter Huhtula, PMCC, Astoria, Oregon

Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

#### **D.7.f Council Action: Adopt Preliminary Alternatives for Analysis and Further Development**

Ms. Vojkovich asked about Ms. Longo-Eder's public comment letter recommending the Council consider re-allocation of sablefish. Ms. Longo-Eder had stated the GAC was not unanimous in recommending no re-allocation of sablefish and this was not consistent with Ms. Vojkovich's recollection. She asked about the make-up of the GAC and how it operates. Dr. McIsaac explained the GAC is comprised of voting members and advisors who do not vote on issues before the GAC. Mr. DeVore said the voting members of the GAC were unanimous in recommending maintaining current sablefish allocations and some of the advisors took exception to this opinion.

Mr. Myer said he believes the reserves are necessary and should be set aside so that we can maintain management flexibility for unforeseen catch overages. Mr. DeVore said the concept of reserves for providing flexibility has been widely discussed. The Council should add this to the suite of alternatives today if a specific reserve set aside should be part of the allocation scheme. However, given the extensive discussion on this concept that has occurred to date, it will be discussed in the EIS regardless of whether the Council explicitly includes this in the range of alternatives. Mr. Myer was confident this issue will be discussed.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 17) to adopt the preliminary intersector allocation alternatives identified in the GAC report (Agenda Item D.7.b, Attachment 1).

Mr. Anderson said the GAC spent a lot of time working through these alternatives and this range of alternatives is a reasonable place to start. A lot of discussion took place about what base-period to base allocation percentages on. The GAC also spent considerable time discussing base periods analyzed for allocations. The 2007-2008 period (GAC alternatives 4 and 8) is important because of the overfished species' implications and current policies for rebuilding these species.

Mr. Myer moved and Ms. Vojkovich seconded an amendment to Motion 17 by inserting the word "reserves" in the set-asides category, with the definition of reserves to be determined by the GAC at a later time.

Ms. Vojkovich said this provides flexibility to provide performance-based allocations. Mr. Moore said he will reluctantly oppose the amendment given the very low OYs currently specified. There is a need to provide fishery stability and he is not sure what the reserve would be. Ms. Fosmark supported the amendment in that a reserve set-aside may keep the current open access and other small fisheries alive. Mr. Melcher thought it might be better to consider reserves in the annual specifications process.

Mr. Lockhart asked Mr. DeVore what type of analysis and associated work load would be needed to support the reserves concept and Mr. DeVore said this complicates the initial analysis a bit until reserve yields are specified.

Mr. Anderson said he was in favor of the amendment and similar situations have arisen where the entire OY was not allocated. The Council needs to flesh out this concept. Mr. Myer reminded the Council that today's task was adopting preliminary alternatives and details on the reserve concept will emerge as we go through the process. Mr. Moore said, while he is not opposed to the concept, he has a problem with the lack of specificity in Mr. Myer's proposal.

The amendment to Motion 17 passed with Mr. Moore voting in opposition. Main motion 17 passed.

Mr. DeVore said there is guidance needed for GMT work priorities in preparation for the next GAC meeting concerning trawl individual quota alternatives. The list of issues the GMT has been asked to consider are captured in Supplemental GMT Report 2.

Mr. Moore noted the Council adopted a motion in September outlining GAC priorities. He asked if the GMT and GAP reviewed these priorities. Ms. Michele Culver answered that the GMT views initial allocation as a policy issue, not a GMT matter. Mr. Moore asked if the GMT would analyze initial allocations after the Council makes a policy decision and Ms. Culver said yes. Ms. Culver added that the GMT did not wish to overload the GAC at the December meeting. The six items listed on Supplemental GMT Report 2 are the GMT's priorities. Mr. Jim Seger added there are other items on the December GAC agenda, but these are recommended GMT priorities. Dr. Hanson asked why co-ops and gear switching are on the list and Ms. Culver explained they were added to the list after the Council's decisions in September.

Mr. Anderson said he would prioritize the time series for initial allocation and the use of total catch data (issue 4 on Supplemental GMT Report 2) over gear switching (issue 3). Mr. Lockhart asked if the GMT was confident they could do everything on the list and Ms. Culver said yes. Dr. McIsaac asked how this refines the range of alternatives. Mr. Burden explained that there are different management implications with the co-op alternative. The GMT intends to provide considerations for understanding these implications. Mr. Anderson thought the co-op alternative only applied to the whiting sectors and Ms. Culver said that was correct, but the GMT was recommending considering co-ops for the non-whiting bottom trawl sector as well. Mr. Moore agreed with this recommendation and thought now was the time to consider this. He asked what was the issue with the number of trawl sectors and Mr. Burden replied there are potentially four trawl sectors or two (whiting and non-whiting).

Dr. McIsaac said we are getting into a bit of a process problem and the Council should be careful no TIQ alternatives are added or deleted now. Guidance to the GMT is the issue here. He recommended prioritizing GMT work with the alternatives that are currently in play. Mr. Anderson agreed and he noted that it has already been decided to analyze allocation for all trawl sectors combined in the intersector allocation process. The Council agreed with these comments. Since the GAC agenda is already set, they decided to let the GMT decide whatever advice they want to give the GAC.

## **D.8 Final Consideration of Inseason Adjustments, If Necessary (11/17/06 4 pm)**

### **D.8.a Agenda Item Overview**

Mr. DeVore provided the agenda item overview.

### **D.8.b Reports and Comments of Advisory Bodies**

#### GMT

Ms. Ashcraft and Mr. Burden provided Agenda Item D.8.b, Supplemental GMT Report.

Mr. Anderson asked when whiting trip limits could be adjusted if the decision is made in March and Ms. Ashcraft answered on April 1.

Mr. Moore said he contacted various industry representatives and there was a general rejection of the proposal to decrease whiting trip limits outside the primary season, a mixed reaction to the 2007 petrale sole trip limit adjustment, and support for the limited entry DTL increase in 2007 for the area south of 36° N latitude.

Mr. Lockhart asked what is known about the bycatch implications by trawlers targeting whiting outside the primary season and Ms. Ashcraft replied not much. Mr. Moore asked if bottom trawlers can fish for whiting inside the RCA under current regulations and Ms. Ashcraft said no, the concern is targeting whiting shoreward of the RCA.

## GAP

Mr. Moore read a GAP statement (oral report only) voicing concern that the GAP had not evaluated or discussed the whiting trip limit proposal or the 2007 petrale sole trip limit adjustments for periods 1 and 6.

### **D.8.c Public Comment**

None.

### **D.8.d Council Action: Adopt or Confirm Final Recommendations for Adjustments to 2006 and 2007 Fisheries**

Mr. Moore moved and Ms. Vojkovich seconded a motion (Motion 27) to adopt a 50,000 pounds per two-month petrale sole trip limit for periods 1 and 6 in 2007; restore the limited entry DTL limits south of 36° N latitude; and request industry to reduce petrale sole catches this year if catch rates appear too high.

Motion 27 passed.

Mr. Lockhart moved and Mr. Anderson seconded a motion (for discussion purposes) (Motion 28) to reduce the whiting per-trip limit from 20,000 pounds to 10,000 pounds for any whiting taken prior to the 2007 primary fishery in order to reduce whiting targeting incentives outside the primary season.

Mr. Anderson then spoke in opposition of the motion, even though he seconded the motion. He said it is not necessary since whiting are not generally available in the winter. He thought the Council could wait until March to do this. Mr. Lockhart said he was concerned that targeting efforts on whiting could increase canary bycatch.

Motion 28 failed on a voice vote. Messrs. Lockhart and Cedergreen voted yes. The rest of the Council voted no.

## **E. Habitat**

### **E.1 Current Habitat Issues (11/15/06; 3:19 pm)**

Ms. Jennifer Gilden provided the agenda item overview.

#### **E.1.a Report of the HC**

Mr. Stuart Ellis provided Agenda Item E.1.a, Supplemental HC Report.

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

None.

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

Mr. Santi Roberts, Oceana, Monterey, California

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

Council members provided comments to Ms. Gilden regarding the proposed letter to FERC. Mr. Helvey wanted to make sure that NOAA GCs' comments would be incorporated into the letter.

Dr. McIsaac said the Council needs to specify if they want to send the letter. The Council agreed by consensus. Dr. McIsaac asked if the Council would get a chance to see the comments made by NOAA GC. Ms. Cooney said we could incorporate Mr. Feder's comments (and others) and bring the letter back on Friday. The Council concurred.

Ms. Vojkovich said since we are dealing with agenda planning on Friday, we should consider the recommendation for a joint ecosystem meeting then. If we cannot accommodate the meeting, then an informational report could be included in the briefing book so the Council will know the outcome of the November joint meeting. Mr. Anderson said he would like to consider the budget implications of the proposed (April) meeting as well.

On the Klamath report, Mr. Melcher said the outline presented by the HC was an excellent start. He thinks it reflects the structure of the last overfishing review for Klamath fall Chinook and the newer issues that have come to light. The suggestions made by Mr. Roth regarding model performance and hatchery interactions should also be included if possible.

Mr. Roth said the HC had done a good job laying out a basic outline. The report will need contributions from the states, tribes, and STT.

Dr. McIsaac said April might be preferable for receiving the report. But it seems more useful to have it in March, so any results from the process (including budget implications) would be available in March instead of April.

Mr. Melcher asked if we were obligated to have the report included in March. Dr. Coon said this is called for in our FMP. Typically in March we have an agenda item for stocks not meeting escapement goals. Dr. Coon said the overfishing requirements require you to start a report in March, and the conservation alert requests that the states/tribes provide their information to the March meeting to alert the Council.

The Council took up the draft letter on Friday, November 17, 2006. Agenda Item E.1.b, Supplemental HC Report 2.

Dr. Coon staffed this agenda item.

Mr. Mallet said we agreed to send the letter; NMFS had some changes that would strengthen it. He believes the changes do strengthen the letter. Mr. Mallet moved, and Mr. Moore seconded, a motion (Motion 22) to have the Council approve and send the letter to the Federal Energy Regulatory Commission as shown in Agenda Item E.1.b, Supplemental HC Report 2.

Mr. Roth appreciates NOAA fisheries making the changes and strengthening the letter and believes the HC would agree with these changes.

Mr. Mallet said we know we had problems coastwide, and this is our opportunity to weigh in on EFH.

Motion 22 passed.

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

### **F.1 Pacific Sardine Stock Assessment and Harvest Guideline (11/15/06; 4:06 pm)**

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

Mr. Mike Burner provided the agenda item overview.

#### **F.1.b NMFS Report**

Dr. Kevin Hill provided Agenda Item F.1.b, Supplemental NMFS PowerPoint Presentation.

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

Mr. David Sones provided Agenda Item F.1.c, Supplemental Tribal Comment.

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

Dr. Conrad provided Agenda Item F.1.d, Supplemental SSC Report.

Mr. John Royal and Mr. Okoniewski provided Agenda Item F.1.d, CPSAS Report.

Mr. Anderson asked why sardine catches in the Pacific Northwest declined. Mr. Okoniewski reported that smaller fish were prevalent, there was carry-over product from 2005, and the sardines in 2006 took longer than usual to develop the high fat contents desired by buyers.

Mr. Anderson asked Mr. Royal how much of the California sardine catch goes into reduction. Mr. Royal does not know of any reduction activities in California but, he said he can't speak to how many sardines are going into Mexico for net pens or for reduction.

Dr. McIsaac asked if the carry-over fish from the 2005 season went to different markets than the fresh catch of 2006. Mr. Okoniewski stated that those carry-over fish are actually carried over by customers abroad and are even now being processed for food markets.

Mr. Melcher asked Mr. Royal if the lack of reduction in California is driven by regulation or by the markets. Mr. Royal stated that there has been some regulation of the reduction fishery in the past but, the reduction activity declined with the decline of sardine canning in California. Chairman Hansen added that in the past much of the reduction occurred in Ensenada.

Mr. Helvey asked where the CPSAS recommendation for a 45% incidental landing limit came from. Mr. Burner stated that value comes from the CPS FMP and represents the highest incidental landing allowance in the plan. Given the high HG for 2006 and the fact that 45% was used in 2006, the CPSAS is recommending 45% again in 2007.

Mr. Okoniewski noted that in his research he did come across some formulas that were used in the 1930's and 40's to determine the size of the reduction fishery and that, at that time, the fishery off Oregon and Washington was largely a reduction fishery rather than a canning operation.

Dr. Sam Herrick provided Agenda Item F.1.d, CPSMT Report.

#### **F.1.e Public Comment**

None.

**F.1.f Council Action: Adopt Pacific Sardine Harvest Guideline and Management Measures for 2007**

Utilizing Agenda Item F.1.d, Supplemental SSC Report, Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 14) to adopt a harvest guideline for 2007 of 152,564 mt using the fishery management plan control rule and the biomass estimate of 1.32 million mt for the management of the Pacific sardine fishery for 2007. This harvest guideline is 28% larger than the 2006 harvest guideline of 118,937 mt. Also establish a 45 percent incidental catch rate be allowed for other CPS fisheries in the event that a seasonal allocation is taken before the end of an allocation period or the HG is projected to be taken before the end of the year. This motion includes adopting the stock assessment.

Motion 14 passed.

**F.2 Stock Assessment Review (STAR) Panel Terms of Reference for 2007 (11/16/06; 8:08 am)**

**F.2.a Agenda Item Overview**

Mr. Burner provided the agenda item overview.

**F.2.b SSC Report**

Dr. Conrad provided Agenda Item F.2.d, Supplemental SSC Report.

Ms. Vojkovich noted that the groundfish process terms of reference included many recommendations as to what sort of things should be reported in the assessment and the STAR report including the need for decision tables. Dr. Conrad reported that many of the reporting aspects were incorporated into the CPS document. Mr. Burner noted that the harvest control rules in the CPS FMP remove a lot of the necessity for a decision table and noted that those harvest control rules will likely be the subject of future CPS meetings but is outside the scope of the 2007 STAR process.

**F.2.c Agency and Tribal Comments**

None.

**F.2.d Reports and Comments of Advisory Bodies**

None.

**F.2.e Public Comment**

None.

**F.2.f Council Action: Adopt Terms of Reference for Coastal Pelagic Species STAR Panels for Public Review**

Ms. Vojkovich moved and Mr. Thomas seconded a motion (Motion 15) to adopt the terms of reference for the 2007 coastal pelagic species STAR Panels for public review as shown in Agenda Item F.2.b, Attachment 1.

Motion 15 passed.

## **G. Pacific Halibut Management**

### **G.1 Changes to Catch Sharing Plan and 2007 Annual Regulations**

Vice Chairman Dave Ortmann chaired this agenda item.

#### **G.1.a Agenda Item Overview (11/16/06; 1:09 pm)**

Mr. Chuck Tracy presented the agenda item overview.

#### **G.1.b Agency and Tribal Recommendations and Comments**

Ms. Culver presented Agenda Item G.1.b, WDFW Report.

Mr. Melcher asked why the rollover provision from the directed commercial halibut fishery to the incidental salmon troll fishery was proposed to be eliminated on page 4 of Agenda Item G.1.b, Supplemental NMFS Report 2. Ms DeReynier replied in the past the quotas were interdependent, but recently have been separated, and since both fisheries normally take their full quota, the proposal was a reflection of the separate quota and management of the fisheries.

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

Ms. Heather Mann presented Agenda Item G.1.c, Supplemental GAP Report.

#### **G.1.d Public Comment**

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

#### **G.1.e Council Action: Adopt Final Proposed Changes for 2007**

Ms. Culver moved and Mr. Melcher seconded a motion, (Motion 18) to adopt the proposed changes for the 2007 Halibut Catch Sharing Plan for 2007 in Agenda Item G.1.b, WDFW Report and in Agenda Item G.1.b, Supplemental NMFS Report 2, except that the original language on page 4 of Agenda Item G.1.b, Supplemental NMFS Report 2, referring to rolling over unused quota in the directed fishery to the salmon troll incidental fishery, would be retained. Motion 18 passed.

## **H. Marine Protected Areas**

### **H.1 Channel Islands National Marine Sanctuary Marine Protected Areas (11/16/06; 1:29 pm)**

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

Mr. Burner provided the agenda item overview.

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

Mr. Burner read for the record, Agenda Item H.1.b, Supplemental HC Report.

Dr. McIsaac referred to the last sentence of the HC report and asked Mr. Feder to comment on the need for legal council guidance on the "research reserve concept" under MSA. Mr. Feder stated that it is a

possibility but noted he has not seen any recent documents describing the research proposal for these closed areas and is open to reviewing such documents.

Mr. Jim Martin provided Agenda Item H.1.b, Supplemental GAP Report.

### **H.1.c Public Comment**

None.

### **H.1.d Council Action: Consider the Next Steps in Implementation of Fishing Regulations through the Magnuson-Stevens Act**

Dr. McIsaac spoke briefly regarding a rationale for consideration of an umbrella type ecosystem management plan. The Council has repeatedly stated a preference for managing fisheries under the authority of the MSA rather than implementing NMS Designation Document changes and NMSA regulations. The Council explored achieving the CINMS MPAs under their existing FMPs and that didn't work because the Council's four FMPs do not cover all of the necessary species for a total fishery closure. The next approach was to regulate fisheries under the rationale of groundfish EFH protection. This action was successful for regulating benthic fisheries, it failed to do so in the water column as such action had insufficient factual and scientific basis as determined by NOAA General Council. Recalling some eloquent speeches by former Council member Mr. Ralph Brown, there could be an umbrella type ecosystem plan that compliments the four existing FMPs and would allow fishing regulation in essentially all of the EEZ. Dr. McIsaac noted that other Councils have begun work on ecosystem management and perhaps the North Pacific example would be a good starting point. Dr. McIsaac cautioned that taking such action would not come without some financial resource needs and that completing a new FMP would take some time.

Ms. Vojkovich agreed with Dr. McIsaac's statements and added that she feels there is both a short-term and a long-term situation in play on this issue. The initiation of an FMP conjures thoughts of a lengthy process with many meetings, but represents a good long-term option. However, the short-term solution should not be lost in the process. The Council has repeatedly told the NMSP that the Council is the appropriate entity for regulating fisheries and she feels the Council should proceed accordingly. Ms. Vojkovich noted that the concept of establishing research reserves through existing MSA authorities has merit and deserved further development. Ms. Vojkovich stated there is a good opportunity to partner with the NMSP on these matters and noted the roundtable discussions that occurred on Monday. The NMSP is part of NOAA and is interested in many of the same research projects as the Council which provides the groundwork for a collaborative approach on research as well as development of ecosystem principles.

Mr. Tim Roth supported Ms. Vojkovich's comments and noted he is serving on the HC where he sees tremendous interest from both the HC and the SSC on this matter. Mr. Roth sees this as a unique opportunity to build on actions such as the krill harvest ban and go further with ecosystem-based principles in the long term. Mr. Roth supports continuing to work on a short-term solution to the CINMS issues while building on this week's joint meeting of the HC and SSC's subcommittee to work on long-term solutions as well.

Mr. Anderson agreed with Mr. Roth and Ms. Vojkovich's comments. Mr. Anderson noted that the Council policy decision to regulate fisheries under the Magnuson-Stevens Act doesn't mean we don't want to coordinate with other entities such as NMSs in ecosystem management. However, he is not ready to give up on that effort and tell the CINMS to go forward with Designation Document changes and start managing fisheries. He agrees this appears to be a vehicle we can use to match our policy decisions with fishery management actions. Mr. Anderson stated that implementing ecosystem-based fishery management will not likely be simple and hopes the Council can build off a lot of the work done by the

NPFMC on this matter. He has questions about state-managed species and how they may be included in any new FMP, but he thinks this umbrella ecosystem management approach provides the best opportunity to build on existing work in the HC and SSC and develop a long-term solution.

Mr. Helvey noted the habitat protections at several California NMSs and the krill ban that was brought forward by the MBNMS and stated that NOAA, through its sanctuary program, has a mission of ecosystem protection. Mr. Helvey feels the Council will see future proposals beyond CINMS and an ecosystem-based plan may be the vehicle to allow the Council to participate with the sanctuaries rather than be reactionary. Regarding Mr. Anderson's comments about state managed species, he noted that California and the CINMS are working somewhat separately now to achieve MPA closures and sanctuary goals and he sees the Council and its over-arching ecosystem plan as a possible venue for bringing state and Federal efforts together to achieve ecosystem protections.

Ms. Fosmark supports an ecosystem FMP, but thinks the Council should consider continuing with the research reserve approach that is currently being reviewed. She is concerned about the Central California Coast NMSs that want to extend their boundaries and further limit fishing opportunities.

Mr. Sones stated his support for an ecosystem plan and noted he first started talking about ecosystem management in the early 1990's. He is opposed to the sanctuaries managing fisheries in areas already managed under the Magnuson-Stevens Act and this proposed action is a positive step in addressing the issue. He agreed with Mr. Anderson that ecosystem management needs to look at all the fisheries and marine resources. In the Pacific Northwest we can see fishery management in NMSs as a issue to be addressed while recognizing the valuable role NMSs can play in providing research, information, and data analysis.

Mr. Moore stated he was in support of initiating an ecosystem plan but asked if California and NMFS were moving forward with regulation of fishing in the Channel Islands through an extension of State regulations into Federal waters. Ms. Vojkovich said extending State regulations has been mentioned as has the approach to build off existing research goals in several of our FMPs and create research reserves under existing MSA authorities. She asked NMFS to speak to the status of that project.

Mr. Feder said he may not be the one to answer the question as he did not know of anything being done since the last Council meeting regarding establishment of scientific or factual bases for the extension of State regulations.

Mr. Burner stated that he does not regard the research reserves and the extension of State regulations to achieve the closures as two separate entities. The short-term approach, as he sees it, would utilize the existing MSA authority to extend State regulations as the regulatory mechanism to achieve the MPA closures. The need for research and research reserves, as called for in several Council FMPs and Council MPA documents, would provide the rationale for taking such action. This concept was first presented to the Council in March of this year and was refined in September. NOAA General Council has requested that this approach be coupled with examples of existing or proposed research activities that are specific to the closed areas in the CINMS. At the September meeting there was some discussion of a market squid research proposal in the CINMS. Mr. Burner agreed that little work on this short-term approach has occurred since September and stated Council staff felt Council direction in September was to keep this short-term approach on the table, but explore other alternatives. Mr. Burner felt the Council discussion of this short and long term approach is consistent with statements heard from the advisory bodies and he felt that the extension of State regulations to expand potential research reserves into Federal waters represents a short-term approach while initiating an ecosystem plan represents a broader long-term solution.

Ms. Fosmark added that the Council should couple this action with comments on the CINMS proposed rule recommending an automatic sunset of NMSA regulations should they be implemented and subsequently become unnecessary when MSA regulations become effective.

Mr. Helvey said there is a lot of research occurring in the CINMS and it would behoove the Council to work with the CINMS to find out what research activity is underway.

Ms. Vojkovich, Mr. Helvey, and Mr. Burner all agreed that the Council's Research and Data Needs document has a section devoted to marine reserves and ecosystem-based fishery management and should be able to serve as a research coordination document with the NMSs. Mr. Burner noted that the SSC white paper and the Council's Phase I document regarding MPA development are also supportive of this effort.

Ms. Vojkovich moved (Motion 19) that we move forward with the short-term approach to fishery regulation within the CINMS through the Magnuson-Stevens Act to develop research reserves by extending State regulations into Federal waters. Mr. Thomas seconded the motion.

Mr. Anderson asked for clarification on what exactly it means to extend state jurisdiction and he noted that the State already has jurisdiction over vessels landing in California.

Mr. Helvey stated there are provisions in the Magnuson-Stevens Act for using State authorities. In this case, California has water column closures in place within State waters and these regulations would be extended into the proposed areas in Federal waters.

Mr. Burner clarified that the Magnuson-Stevens Act provisions do not extend State authority into Federal waters, they simply implant existing State regulation in Federal water under Federal authority.

Mr. Anderson stated that Washington currently adopts State regulations that mirror the Federal regulations so that Washington enforcement entities can enforce fishery regulations on Washington registered vessels in Federal waters and asked if there is something additional that the Council would need to do in the case of the CINMS or do the authorities already exist. There has been no authority deferred or delegated to the State, rather the State has conformed to Federal regulations.

Mr. Feder stated that Ms. Vojkovich is describing MSA discretionary provisions for FMPs that allow for incorporation into FMPs the relevant conservation and management measures of the coastal states. He continued that this is different from the States' authority to regulate their own registered vessels in State and Federal waters so long as State regulations are not inconsistent with MSA regulations. Mr. Anderson said that the state authority can be inconsistent so long as the regulations are more conservative than Federal regulations.

Motion 19 passed.

Ms. Vojkovich moved (Motion 20) to have the Council begin the process of exploring an ecosystem FMP and using the work already conducted elsewhere to frame how we might approach this FMP. The motion is not to intended to adopt any FMP at this time but rather used existing committees and expertise to begin looking at what is involved in developing and crafting such an FMP. Mr. Thomas seconded the motion.

Mr. Anderson suspected that the ecosystem plan in the NPFMC is as close a model for us to work with as possible. The HC and the SSC would be the two bodies along with Council staff would take a look at existing documents and report to the Council what concepts would be compatible with the West Coast. Mr. Burner said the discussion paper on the Aleutian Islands prepared by the NPFMC is a good starting point. However, that plan defers all management activities to the existing FMPs and on the West Coast there has been some discussion about the need to regulate fishing activities for species not contained in the four FMPs and this may be a area where the Councils ecosystem plan may differ from the NPFMC example.

Motion 20 passed.

Ms. Vojkovich said this long-term effort is going to take money to do this and suggested the Council start a dialogue with the West Coast NMSs regarding the coordination of goals and objectives so that the resulting plan can help to meet both the needs of the Council and the NMSs. This coordination would allow participation in the process by the NMS with the possibility of a broader funding base for the project. She also suggested that if it is legal, Council staff could look for outside grants from organizations such as PEW foundation.

Mr. Roth said the topic of funding was discussed in the HC including the potential to partner with the NMSs on both the identification of shared research needs and opportunities for funding partnerships.

Mr. Feder stated there are potential problems with accepting funds from outside sources. The general rule is that Federal entities are appropriated their operating funds by Congress and are not allowed to accept funds from outside sources.

Ms. Vojkovich clarified that funds cannot be sent directly to the Council, but it may be appropriate for an outside organization to fund a workshop or meeting without the Council receiving funds directly. Mr. Feder agreed that looking into those types of arrangements would be worthwhile.

Mr. Roth said the discussion was not having the Council receive funds, but rather have the Council develop planning projects and research activities for other entities to fund.

Dr. Hanson said the PSMFC could also help with the coordination of funds and projects.

Mr. Burner asked that the Council discuss scheduling of the next steps in this long-term approach under Agenda Item B.6. when future agenda planning occurs.

## **I. Salmon Management**

Vice Chairman Dave Ortmann chaired the salmon agenda items.

### **I.1 Preseason Salmon Management Schedule for 2007 (11/17/06 ; 8:10 am)**

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

Mr. Chuck Tracy presented the agenda item overview.

#### **I.1.b Agency and Tribal Comments**

Ms. Vojkovich presented Agenda Item I.1.b, Supplemental CDFG Report.

Mr. Melcher asked if the invitee list was the previous KRTAT members or was expanded. Ms. Vojkovich replied it is a subset of the KRTAT necessary to produce the two reports for preseason management.

Mr. Melcher asked who the contact person was. Ms. Vojkovich said Mr. Larry Hanson would probably be the contact person.

Ms. Vojkovich noted CDFG would assure former KFMC participants would be kept informed of relevant developments.

Mr. Anderson noted the early February meeting of the Salmon Technical Team puts a lot of pressure on WDFW and tribal negotiations to complete their tasks in time for Preseason Report I. Mr. Tracy replied the meeting was moved up to avoid a conflict with the PSC meeting that STT members participate in.

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

None.

### **I.1.d Public Comment**

Mr. David Bitts, PCFFA, Eureka, California.

### **I.1.e Council Action: Approve 2007 Preseason Management Schedule and Hearing Sites**

Ms. Vojkovich asked if there was an opportunity at the March 2007 meeting to convene a quasi advisory group of the past KFMC members. Dr. McIsaac replied it was a possibility pending any legal or budgetary issues, although Council staff time would be limited.

Mr. Anderson noted the similarity to the North of Falcon process, which the Council has provided space for at the March and April Council meetings; perhaps a space could be provided in a similar manner for Klamath issues.

Mr. Roth said USFWS supports the KFMC process, but was unsure what flexibility USFWS had in funding those activities, and advised Dr. McIsaac to work with Mr. Phil Dietrich on funding issues.

The Council agreed to provide a meeting room for the forum.

Mr. Melcher recommended an informal work group meeting for Klamath issues prior to the March 2007 Council meeting, similar to the North of Falcon meeting, which he would attend.

Ms. Vojkovich said she could coordinate and facilitate such a meeting.

Mr. Anderson moved (Motion 23) that the Council sponsor the public hearings as shown in Agenda Item I.1.a, Attachment 1. Mr. Cedergreen seconded the motion. Motion 23 passed.

Mr. Anderson moved (Motion 24) to adopt the proposed process for developing 2007 ocean salmon measures as shown in Agenda Item I.1.a, Attachment 1. Mr. Cedergreen seconded the motion. Motion 24 passed.

Dr. McIsaac asked if the early season openings south of Cape Falcon could be addressed the week prior to the March 2007 Council meeting to facilitate the option development process.

Mr. Melcher recommended against that because it was difficult to have all the guidance and model development in place by then.

## **I.2 Salmon Methodology Review**

### **I.2.a Agenda Item Overview (11/17/06; 8:48 am)**

Mr. Tracy presented the agenda item overview.

### **I.2.b Report of the Scientific and Statistical Committee**

Mr. Bob Conrad presented Agenda Item I.2.b, Supplemental SSC Report.

Dr. McIsaac asked if the SSC had any suggestions to the experimental design of the proposed genetic stock identification (GSI) study. Mr. Conrad replied the SSC provided more detailed comments to the project leaders, but he was unsure of how those comments would be addressed.

Dr. McIsaac asked if and when there would be an experimental design provided for SSC review. Mr. Lockhart replied the design would be dependent on the structure of 2007 ocean salmon fisheries, and could be provided as soon after the March Council meeting as possible.

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

Mr. Sones noted the tribes concern over expanding mark selective fisheries, especially for Chinook, given the state of the Fishery Regulation Assessment Model (FRAM) to deal with selective fisheries impacting multiple broods over several years. The base data expansion process should be completed to include 1986-2003 for calibration of the FRAM.

Mr. Anderson noted WDFW felt the Chinook FRAM had been adequately modified to assess the effects of mark selective fisheries on Chinook stocks..

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

Mr. Larrie LaVoy presented Agenda Item I.2.d, Supplemental MEW Report.

Mr. Melcher asked if there were place holder stocks in the Coho FRAM for lower Columbia River natural coho. Mr. LaVoy replied there were three place holder stocks: Clackamas early, Clackamas late, and Sandy late wild stocks; CWT representation was the associated early and late hatchery stocks. The MEW recommended developing a weighted average of early and late CWT groups to represent the aggregate lower Columbia River natural coho stock.

Mr. Alan Grover summarized Agenda Item I.2.d, STT Report.

Mr. Melcher asked if the STT felt the FRAM documentation was sufficient to evaluate both mark selective and non-mark selective fisheries. Mr. Grover replied it was sufficient to understand the modeling exercises for both.

Mr. Jeff Feldner presented Agenda Item I.2.d, Supplemental SAS Report.

### **I.2.e Public Comment**

Mr. Scott Boley, troller, Gold Beach, Oregon.

Mr. Melcher asked how the contact rate review for the Klamath Ocean Harvest Model should be conducted. Mr. Boley replied it should include a review of fleet capacity.

Mr. Rod Fujita, Environmental Defense, San Francisco, California.

Mr. Dean Estep, troller, Ft. Bragg, California.

Ms. Ellen Faulkner, North Coast Consumers Alliance, Redwood Valley, California.

Ms. Ann Maurice, Ad Hoc Committee, Occidental, California.

### **I.2.f Council Action: Adopt Final Salmon Methodology Changes for 2007**

Mr. Anderson moved (Motion 25) to adopt the FRAM documentation for final editing and general distribution. Mr. Melcher seconded the motion. Motion 25 passed.

Ms. Vojkovich recommended an interagency group headed by NMFS be formed to discuss use of the GSI study data. Mr. Lockhart replied NOAA fisheries was committed to exploring the use of this data and would lead the group.

Mr. Williams noted those issues were being discussed in the PSC forum and they will be contacting the Council.

Dr. McIsaac asked if the workgroup would put together a more detailed study design. Mr. Lockhart replied yes, depending on the work group composition and associated FACA concerns.

Dr. McIsaac noted a stand-alone study design may facilitate funding.

Mr. Tracy noted an EFP would require a detailed study design for review by the SSC and other advisory bodies at the March 2007 Council meeting.

Mr. Melcher noted the Council requested PSMFC to help with the Klamath fall Chinook (KRFC) brood year birthdate issue. Dr. McIsaac suggested a progress report on the issue at the March 2007 Council meeting

### **I.3 FMP Amendment 15 (de minimis fisheries) (11/17/06: 10:51 am)**

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

Mr. Tracy presented the agenda item overview.

#### **I.3.b Salmon Amendment Committee Report**

Mr. LB Boydston and Ms. Corinne Pinkerton presented a PowerPoint overview of Agenda Item I.3.a, Attachment 1; Preliminary Draft Environmental Assessment for Pacific Coast Salmon Plan Amendment 15 ( attached to Agenda Item I.3).

Mr. Melcher asked if the analysis was based on the maximum allowed ocean impact rate for each of the cap alternatives and if there was an error structure built around the cap. Mr. Boydston replied yes to both questions; variability was included in both the stock projections and the ocean fishery projections.

Mr. Anderson noted the presentation referred to the management area for KRFC as being from Cape Falcon, Oregon to Point Sur, California, and asked if it would be appropriate to include some specific language to that effect in Chapter 6. Mr. Tracy replied the intent of the amendment was to limit management response to that area and that appropriate verbiage should be incorporated into the proposed FMP language in Chapter 6.

Mr. Anderson asked if the alternatives could result in impact rates up to the cap regardless of forecast stock size. Mr. Boydston replied the modeling operated under that assumption.

Mr. Boydston then presented Agenda Item I.3.b, Supplemental SAC Report.

Mr. Melcher asked for clarification on the statement that the 2006 KOHM resulted in lower effort estimates than observed in previous years. Mr. Boydston replied that statement was in the context of a given impact rate, and that it would take less effort to reach that impact rate under the 2006 KOHM.

Mr. Lockhart asked for interpretation of the economic effects of reduced opportunity associated with the 2006 KOHM versus earlier years. Ms. Pinkerton replied the long term historical range still encompasses the projected range, but the projected values are generally lower, both because of *de minimis* fishing effects and because of the updated KOHM parameters.

Mr. Lockhart asked if the consideration for reduced impacts during *de minimis* fishing years included critically low natural spawning abundance for sub-populations as well as the aggregate natural spawning population. Mr. Boydston replied yes, and that the two were closely linked in the analysis.

### **I.3.c Agency and Tribal Comments (11/17/06; 1:14 pm)**

Mssrs. Mike Orcutt and Danny Jordan presented Agenda Item I.3.c, Supplemental Comments of Hoopa Valley Tribe. Mr. Jordan also noted that a tribal harvest at a level below 12,000 represented an emergency situation for the tribes. The tribal commercial fishery was eliminated in 1978 due to conservation concerns; although there was subsequent effort to bolster ocean fisheries, and agriculture interests in the Klamath Basin receive government subsidies, no money has been spent on developing or adding value to the tribal fisheries. The figure of \$1.5 million assumed value of the tribal fishery is a disservice to the tribal community as the value in commercial, social and religious terms is much greater. The 1987 allocation agreement and associated conservation objectives allowed the tribes to focus on habitat restoration issues. Reopening the allocation and conservation debate would detract from those efforts.

Mr. David Hillemeier presented Agenda Item I.3.c, Supplemental Yurok Tribal Comments.

Mr. Melcher asked if the Klamath Basin communities supported the emergency rule to allow fishing in 2006. Mr. Hillemeier replied the communities did support that action because it represented *de minimis* impacts, as opposed to the Amendment 15 proposal of about 25% to 33% spawner reduction rate.

Mr. Lockhart asked for an explanation of the statement regarding the substantially higher risk to Klamath Basin sub-stocks with the 10% Cap and 13% Cap Alternatives. Mr. Hillemeier replied it was based on the graph in Agenda Item I.3.b, Supplemental SAC Report and table ES-2 in Agenda Item I.3.a, Attachment 1 depicting the relative differences among alternatives compared to the Status Quo Alternative.

Ms. Vojkovich noted CDFG's primary objective was maintaining the productivity of Klamath Basin stocks and they were concerned about the interpretation of the term *de minimis*.

Mr. Lockhart noted NOAA Fisheries believes the Council has sufficient information to reach an informed decision on *de minimis* fisheries, which would be supported by Agenda Item I.3.d, Supplemental SSC Report. However, it may be necessary to specify some qualifications on how fisheries would be adjusted based on annual circumstances.

### **I.3.d Reports and Comments of Advisory Bodies (11/17/06; 1:05 pm)**

Dr. Bob Conrad presented Agenda Item I.3.d, Supplemental SSC Report. Mr. Dave Bitts provided Agenda Item I.3.d, Supplemental SAS Report.

Ms. Fosmark asked for an explanation of the sliding scale feature recommended by the some of the SAS members. Mr. Bitts replied it would decrease the allowable impacts as stock size decreased, thus

reducing overall risk to the stock from *de minimis* fisheries. The initial and terminal points could be selected at any stock size below the threshold *de minimis* level.

Ms. Fosmark asked for a relative comparison between commercial fishing mortality and freshwater mortality factors. Mr. Bitts replied the difference between an 80%-90% mortality from disease outbreaks and a spawner reduction rate from fishing of 33% was approximately half an order of magnitude.

Mr. Tracy read into the record Agenda Item I.3.d, Supplemental HC Report. Mr. Tracy read into the record Agenda Item I.3.d, Supplemental STT Report.

**I.3.e Public Comment (11/17/06; 1:54 pm)**

Public hearing reports 1 through 3 were referenced by Mr. Tracy.

Mr. Dave Bitts, PCFFA, Eureka, California

Mr. Dan Wolford, Coastside Fishing Club, Los Gatos, California

Ms. Ellen Faulkner, North Coast Consumers Alliance, Redwood Valley, California

Ms. Ann Maurice, Ad Hoc Committee, Occidental, California

Mr. Dean Estep, salmon troller, Fort Bragg, California

Ms. Barbara Emley, PCFFA, San Francisco, California

Mr. Scott Boley, salmon troller, Gold Beach, Oregon

Mr. Ray Monroe, Oregon Salmon Commission, Pacific City, Oregon

Mr. Daniel Platt, troller, Fort Bragg, California

Mr. Bob Osborn, United Anglers of Southern California, Surfside, California

**I.3.f Council Action: Adopt Final Preferred Alternative for Implementation in 2007**

Mr. Melcher felt that the result of events since 2005, including consideration of an emergency rule in 2005, use of an emergency rule in 2006, input from fishing communities, development of the alternatives for Amendment 15, analysis of the biological and economic impacts of those alternatives, and scientific review of the analyses, has led to the conclusion that adopting a *de minimis* fishery alternative for Amendment 15 is the correct course of action. The choice of which alternative is a policy decision based on balancing the risk and benefits of the various alternatives. The risk associated with the alternatives, in both absolute and relative terms, appears to increase linearly. The 5% Cap Alternative appears the most risk averse, but the benefits appear to accrue primarily in the recreational fishery sector outside the KMZ. The 13% Cap Alternative has risks similar to those accepted in 2006, however, additional precaution is warranted for a longer term policy. The 10% Cap provides significant increase in economic benefits over the 5% Cap Alternative for commercial fisheries in California and Oregon, as well as KMZ recreational fisheries. However, based on the agency, tribal, advisory body, and public testimony, he believes some additional level of conservation is appropriate.

Mr. Melcher moved (Motion 26) to adopt the salmon FMP amendment language with the changes contained in Agenda Item I.3.f, Supplemental ODFW Motion, resulting in the following language in numbered paragraph 3 under section 3.2.2.2:

In the case of Klamath River fall Chinook, the Council may allow *de minimis* fisheries, which: permit an ocean impact rate of no more than 10% on age-4 Klamath River fall Chinook if the projected natural spawning escapement associated with a 10% age-4 ocean impact rate, including river recreational and tribal impacts, is between 22,000 and 35,000. Ocean fishery impacts to the returning brood incurred during the previous fall will be counted against the allowable 10% age-4 ocean impact rate. Implementation of *de minimis* fisheries will depend on year specific estimates of ocean abundance and age composition, and will be determined by the STT prior to the March Council meeting. If the projected natural escapement associated with a 10% age-4 ocean impact rate is less

than 22,000, the Council shall further reduce the allowable age-4 ocean impact rate to reflect the status of the stock.

Mr. Warrens seconded the motion.

Mr. Melcher noted the 22,000 spawning level was based on the 2006 process and analysis, which forecast an escapement of 21,100 natural spawning adults.

Mr. Lockhart moved to amend Motion 26 to insert at the end of numbered paragraph 3, in section 3.2.2.2 the following language:

The Ocean Impact rate is the maximum rate each year. In determining the actual rate, the Council shall consider at least the following items:

1. Critically low natural spawner abundance, including the risk of substocks dropping below crucial genetic thresholds
2. A series of low spawner abundance in recent years.
3. Status of co-mingled stocks.
4. El Niño or other adverse environmental conditions.
5. ESA considerations.
6. Other considerations as appropriate.

When considering these items, the Council shall determine that the final ocean impact rate will not jeopardize the capacity of the fishery to produce the maximum sustainable yield on a continuing basis.

The intent of the amendment to Motion 26 was to specify the considerations for year specific circumstances to set an annual *de minimis* level less than the cap level.

Mr. Moore seconded the amendment to Motion 26.

Mr. Roth noted some concerns, including the possibility of over optimistic results from the biological analysis, the characterization of the 10% Cap alternative as *de minimis* when it resulted in a total spawner reduction rate of about 25%, the contribution of sub-stocks to overall Klamath Basin productivity, the high probability of an Overfishing Concern being exacerbated by *de minimis* fisheries, and tribal trust responsibilities. It would be difficult to support a 10% or 13% Cap Alternative without additional safeguards, and a commitment to continue with habitat restoration efforts.

Mr. Lockhart's amendment passed.

Mr. Anderson moved to amend Motion 26 to adopt the following language to the beginning of numbered paragraph 3;

In the case of Klamath River fall Chinook, the harvest management area is defined as that between Cape Falcon, Oregon and Point Sur, California, the Council may allow ...

Mr. Cedergreen seconded the amendment to Motion 26.

Mr. Anderson indicated that the analyses in the amendment were based on the KOHM and economic models, which assume management actions and economic benefits occur between Cape Falcon and Point Sur, and therefore the amendment should specify the intended management area.

Ms. Vojkovich asked if the proposed amendment to Motion 26 would preclude action to reduce Klamath impacts in areas north of Cape Falcon if they were to be found at higher levels in the future, perhaps

because of a change in fishing patterns. Mr. Anderson replied that it would not preclude action, but that the action would have to take the form of an emergency rule or another FMP amendment.

Mr. Lockhart felt the amendment to Motion 26 was consistent with the intent of FMP Amendment 15.

The amendment to Motion 26 passed.

Ms. Vojkovich moved to adopt a substitute motion that the Council take no action to amend the salmon FMP. Mr. Sones seconded the motion.

Ms. Vojkovich noted that Mr. Roth expressed many of her concerns and the rationale for not amending the FMP. The risks of all the alternatives increase over the Status Quo Alternative. The sub-stock issue poses the greatest risk according to the analysis, and the risk is probably greater than characterized because of other and smaller sub-stock populations within the basin. The SSC also observed that *de minimis* fisheries would exacerbate the problem of Overfishing Concerns and declining stock productivity. If treated as a target, the 35,000 spawning escapement floor would be met at least 50% of the time, but it would not be prudent to plan to miss that target. The STT reported the accuracy of spawning return predictions are declining. None of the alternatives have an equitable distribution of benefits and costs because of the difference in contact rates between recreational and commercial fisheries. For those reasons she supported the Status Quo Alternative.

Mr. Melcher noted the concern over increasing risk of record low spawning abundance should be considered both in relative and absolute terms. The absolute probability of the 13% Cap Alternative is only 3%. A similar argument could be made for the risk of a substock falling below a spawning escapement of 720.

Ms. Vojkovich noted the SSC report stated that the absolute scale was uncertain.

Mr. Roth noted that while the probabilities of sub-stock spawning escapements less than 720 were low, recent historical data showed a more serious problem, and both the Scott and Salmon rivers were below 720 in 2004 and 2005.

Mr. Lockhart clarified that by approving Motion 26, as twice amended, a spawning escapement floor less than 35,000 would not be established. A cap for *de minimis* fisheries, to be implemented on a limited basis would be set; however the actual level in any year would be evaluated based on the specific circumstances of that year, and could be substantially less than the cap level. In discussions with NMFS Science Center personnel and NWR staff weighing the risk to the population against the severe economic consequences, the 10% ocean impact rate Cap was considered an acceptable balance.

The substitute motion failed; Ms. Vojkovich and Mr. Sones voted in favor of the substitute motion.

Mr. Anderson agreed with SAC recommendation 6 to delay selection of a preferred alternative until March 2007 and rely on the analysis to support an emergency rule if necessary for 2007 salmon management measures. He felt a 10% age-4 ocean impact rate was acceptable for spawning escapements above about 33,000, but not necessarily at escapements less than that. He suggested a sliding scale approach may add structure and stability to the process of determining an appropriate impact rate in any given year.

Mr. Lockhart asked if Mr. Anderson was making a specific proposal or just supporting the concept of a sliding scale. Mr. Boydston replied a subcommittee of the SAC put together simplified sliding scale alternatives similar to the KFMC proposal, which started at the cap level and had intercepts at zero spawners and at 12,000 spawners. The alternatives were developed in anticipation of additional discussion of sliding scale or other structured alternatives, but were not vetted with the STT, SSC, or the full SAC.

Mr. Melcher observed that Motion 26 as amended was directly analogous to the FMP language in section 3.2.2.2 paragraph 2 regarding stocks in the North of Cape Falcon area, and to the way ESA listed stocks were treated. He recognized the concern surrounding the stability of the preseason planning process, but felt the motion was very similar to, if not more specific, than how similar situations are currently handled elsewhere.

Mr. Lockhart said NOAA Northwest Region discussed and confirmed that the current analysis would support the adoption of a sliding scale alternative. The range of impacts contained in the current analyses encompasses what would be expected in a sliding scale alternative. The Council could chose a sliding scale preferred alternative at this time as long as it was within the range of alternatives analyzed; however, it would require some additional model runs, which could possibly delay implementation until after May 1. The analysis would increase the likelihood of passing an emergency rule in 2007 if necessary, however, the substantive issues of overfishing and risk to the population would be more important than the procedural questions of process stability.

Motion 26 as twice amended passed. Ms. Vojkovich and Mr. Anderson voted against the motion; Mr. Myer abstained.

#### **OPEN PUBLIC COMMENT FOR NON-AGENDA ITEMS**

**Public comments on fishery issues not on the agenda are accepted at this time.**

Mr. Ray Monroe, salmon troller, Pacific City, Oregon provided the Council members with a DVD entitled "Home of the Dory Fleet, A Film About the Rugged Dorymen at Pacific City, Oregon". Copies of this DVD may be purchased on location at: Pacific City Sporting Goods, Pacific City, Oregon, or by contacting: The Dorymen's Association, Inc., PO Box 728, Pacific City, Oregon 97135.

Mr. Steve Bodnar, provided details of an outreach program working with Oregon schools to educate them about the trawl fleet, formed through a partnership with Oregon Trawl Commission. He showed a DVD with video from the school program. There always seems to be doom and gloom in the industry, he wants to show that the trawlers are providing education to students, showing positives of the Oregon trawl industry. They want to expand the program. He also passed out a brochure outlining the program.

#### **ADJOURN**

The 186<sup>th</sup> meeting of the Pacific Fishery Management Council meeting was adjourned on Friday, November 17, 2006, at 5:30 pm.



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**Council Chairman**

**June 15, 2007**

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**Date**