

MINUTES  
Pacific Fishery Management Council  
**November 1-7, 2008 (196<sup>th</sup> Meeting)**  
Town and Country Resort and Convention Center  
500 Hotel Circle North  
San Diego, CA 92108  
Telephone 619-291-7131

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## **A. Call to Order**

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

Don Hansen, Chair, called the 196th meeting of the Pacific Fishery Management Council to order on Sunday, November 1, 2008 at 2 p.m. A closed session was held from 1 p.m. to 2 p.m.

### **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. Brian Corrigan (US Coast Guard, non-voting)  
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)  
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)  
Ms. Marija Vojkovich (State of California Official)  
Mr. Frank Warrens (Oregon Obligatory)  
Mr. Gordon Williams (State of Alaska Official, non-voting)  
Mr. Dan Wolford (At-Large)

The following Council member was absent from the entire meeting:

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

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

Dr. McIsaac walked the Council through the seven informational reports.

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

The Council approved the agenda as shown in Agenda Item A.4., November Council Meeting Agenda with the following changes: switch the order of Agenda Items G.2 and G.1. (Motion 1)

## **B. Open Comment Period**

### **B.1 Comments on Non-Agenda Items (11/02/08; 2:20 p.m.)**

#### **B.1.a Agency and Advisory Body Comments**

None.

#### **B.1.b Public Comments**

Mr. Bill Blue, Morro Bay Commercial Fishermen's Association. Spoke about open access and agreed with the PFMC preferred alternative. Spoke about the qualifying period.

Mr. Bill James spoke on behalf of Port San Luis Commercial Fishermen's Association to express concerns that some of the association members may not qualify for "B" permits under the proposed Groundfish Amendment 22 License Limitation Program.

#### **B.1.c Council Discussion of Comments as Appropriate**

None.

## **C. Pacific Halibut Management**

### **C.1 Final Changes to Catch Sharing Plan and Annual Regulations for 2009 (11/02/08; 2:25 p.m.)**

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

Mr. Chuck Tracy presented the agenda item overview.

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

Mr. Phil Anderson presented Agenda Item C.1.b, Supplemental WDFW Report.

Mr. Don Bodenmiller presented Agenda Item C.1.b, Supplemental ODFW Report.

Mr. David Sones presented Agenda Item C.1.b, Supplemental Tribal Comments.

Mr. Tracy asked how the landings for the separately managed and joint restricted fisheries, which appear to run concurrently, were separated. Mr. Sones replied fishermen must declare which fishery they were participating in and that would be recorded on the fish receiving ticket.

Mr. Frank Lockhart presented Agenda Items C.1.b, Supplemental NMFS Report and C.1.b Supplemental NMFS Report 2.

Mr. Anderson asked if the Washington Department of Fish and Wildlife (WDFW) recommendations would satisfy the requirements for the yelloweye rockfish conservation area. Ms. Cooney replied no, that there was also a need to change the Code of Federal Regulations in addition to the Catch Sharing Plan.

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

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

Ms. Leesa Cobb, Ocean Resource Team, Newport, OR  
Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA

### **C.1.d Council Action: Adopt Final Proposed Changes for 2009**

Mr. Steve Williams moved (Motion 2) to adopt the recommendations contained in Agenda Item C.1.b, Supplemental ODFW Report. Mr. Rod Moore seconded the motion. Motion 2 passed unanimously.

Mr. Anderson moved (Motion 3) to adopt the recommendations contained in Agenda Item C.1.b, Supplemental WDFW Report. Mr. Dale Myer seconded the motion. Motion 3 passed unanimously.

Mr. Lockhart moved (Motion 4) to adopt the recommendations in Agenda Item C.1.b, Supplemental NMFS Report 2. Mr. Moore seconded the motion. Motion 4 passed unanimously.

## **C.2 Pacific Halibut Catch Apportionment Methodology**

### **C.2.a Agenda Item Overview (11/02/08; 3 p.m.)**

Mr. Tracy presented the agenda item overview.

### **C.2.b Reports and Comments of Agencies and Advisory Bodies**

Mr. Anderson presented Agenda Item C.2.b, Supplemental PFMC Representative Report.

Ms. Vojkovich asked if the adjustment to the amount of halibut habitat was included in the proposed adjustment factors. Mr. Anderson replied that the hope was that it would be included in the sensitivity analysis conducted by the International Pacific Halibut Commission (IPHC) staff and then considered when making recommendations for biomass apportionment.

Ms. Vojkovich asked if the habitat was classified by sea-floor mapping, fishery information, or some other method. Mr. Anderson replied it was based on known depth contours and halibut distribution from northern California to the U.S./Canada border.

Mr. Steve Williams noted the IPHC staff was very responsive to the Area 2A concerns and requests.

Mr. Anderson noted that while there may be some issues in Area 2A that could mitigate the effects of the biomass apportionment recommendation, there is some evidence of a resource concern necessitating some correction in management. Addressing the concern should result in long term benefit to the resource.

Mr. Moore asked if the resource concern was specific to Area 2A or if it was broader. Mr. Anderson replied that it was broader than Area 2A, and that the problem was probably more severe in Area 2B, although there was also better information for Area 2B.

### **C.2.c Public Comment**

None.

## **C.2.d Council Action: Recommendations to International Pacific Halibut Commission**

Mr. Anderson requested the Council staff assist with making arrangements for another meeting or conference call of the Area 2A Halibut Managers' Workgroup prior to the IPHC Annual Meeting the week of January 13, 2009, in Vancouver, B.C. The Council concurred.

## **D. Salmon Management**

### **D.1 Salmon Methodology Review**

#### **D.1.a Agenda Item Overview (11/03/08; 8:07 a.m.)**

Mr. Tracy presented the agenda item overview

#### **D.1.b Report of the Scientific and Statistical Committee**

Dr. Pete Lawson presented Agenda Item D.1.b, Supplemental SSC Report.

Mr. Wolford asked if the Sacramento Harvest Model (SHM) predicted fall fishery impacts. Dr. Lawson replied it used coded-wire tag information to estimate fall fishery impacts for the previous calendar year, but did not predict impacts beyond August of the current year.

Mr. Wolford asked if use of the SHM would result in a credit card fishery situation. Dr. Lawson replied yes.

Dr. McIsaac asked if the Scientific and Statistical Committee (SSC) reviewed the assumption of a maturation date of September 1 for Sacramento River fall Chinook. Dr. Lawson replied no, there was no presentation of that information.

Dr. McIsaac asked if the Sacramento Index (SI) forecast used jacks to forecast total adults or age-3 adults. Dr. Lawson replied the SI was not age structured, and therefore predicted all adults.

Dr. McIsaac asked if there would be an adjustment for years like 2009 when there were likely to be few age-4 adults. Dr. Lawson replied that was the rationale for forcing the regression through zero in 2008.

Mr. Steve Williams asked for an example of a low intensity mark-selective coho fishery. Dr. Lawson replied it was tentatively defined as an exploitation rate of less than 10 percent for a given time/area strata in the model or 30 percent total, but that issue should be further explored and refined.

Mr. Tracy asked if a 10 or 30 percent exploitation rate for a time/area strata would include all fisheries (commercial, recreational, tribal) or would it apply to each fishery, and whether they were mark selective or not. Dr. Lawson replied the 10 percent would probably apply to all mark-selective fisheries in a given time/area strata, however, addition analysis would be required for confirmation.

Mr. Moore asked what would be required to model mark-selective fisheries with exploitation rates greater than 10 or 30 percent. Dr. Lawson replied the Salmon Technical Team (STT) or Model Evaluation Workgroup (MEW) may consider adding a bias correction factor to the Fishery Regulation Assessment Model (FRAM).

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

Dr. Robert Kope presented Agenda Item D.1.c, Supplemental STT Report.

Mr. Anderson asked if the STT had discussed the SSC recommendation to further evaluate the 10 and 30 percent exploitation rate thresholds. Dr. Kope replied no, but that the MEW would probably be the appropriate body to conduct that evaluation.

Dr. McIsaac asked if the STT could model a mark-selective fishery in 2009. Dr. Kope replied yes.

Mr. Andy Rankis presented Agenda Item D.1.c, Supplemental MEW Report.

Mr. Butch Smith presented Agenda Item D.1.c, Supplemental SAS Report.

Mr. David Sones provided Agenda Item D.1.c, Supplemental Tribal Comments.

Mr. Anderson noted the work of evaluating the models was very important to the future of Council fisheries. Millions of dollars are spent annually for hatchery production. Endangered Species Act listing of Chinook in several basins have constrained fisheries and the ability to access hatchery fish being produced in Federal, state, and tribal facilities. The Hatchery Scientific Review Group recently recommended agencies reduce the interaction of hatchery fish with wild fish on the spawning grounds. Since 2005 legislation has required mass-marking most hatchery fish in facilities that utilize Federal funds. The recent Pacific Salmon Treaty negotiations call for harvest reductions in Alaskan and Canadian fisheries that will result in greater returns of both hatchery and wild fish to southern U.S. waters. The ability to have selective fisheries will be important to reduce the interaction of hatchery and non-hatchery fish. Given the level of intensity identified in the SSC report, meaningful mark-selective fisheries would be possible in the Council area, and possibly necessary, if the allowable exploitation rate on lower Columbia River tule Chinook is further reduced. Mark-selective Chinook fisheries north of Cape Falcon would likely be considered no later than 2010.

Mr. Tim Roth, United States Fish and Wildlife Service (USFWS), agreed with Mr. Anderson's comments on mark-selective fisheries and reported that Coleman National Fish Hatchery will likely achieve their broodstock collection objective, which indicates the Council's 2008 salmon management measures were both effective and appropriate, and that the SI was probably performing well.

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

None.

### **D.1.e Council Action: Adopt Final Methodology Changes for 2009 Salmon Seasons**

Mr. Wolford noted the SI and SHM were improvements over the Central Valley Index (CVI) regarding biological impacts, however the lack of a prediction for fall fisheries results in unacceptable risks to the fisheries, and therefore the SI and SHM should not be used in 2009 or until the fall fishery issue can be addressed. Dr. Kope replied the fall fisheries included in the CVI model were applied incorrectly, and to include them in the 2009 SI would require forecasting 2010 abundance, which was not feasible. Dr. Lawson recognized the SI may create a new management problem but at least the biological modeling would be substantially improved.

Mr. Cedergreen noted not all sectors were currently in support of mark-selective Chinook fisheries north of Cape Falcon, but the alternative was very small or no fisheries. Otherwise hatcheries would have to be

closed, further reducing fishing opportunity. Mark-selective fisheries will be very important to coastal communities in the future, and models that will help inform the decision process will be valuable.

Mr. Anderson advised that no specific action was required relative to using Chinook FRAM for mark-selective fishery modeling at the time. Chinook FRAM would be used to evaluate fisheries in 2009, and there were no anticipated fishery proposals for 2009 that approach the 10 or 30 percent exploitation rate level. Additional evaluation of the 10 and 30 percent levels would continue with the possibility of refinement at a later date.

Dr. McIsaac asked if the Council had any objections to using the proposed methodologies in 2009.

Ms. Vojkovich recommended the STT use the new SI and SHM in 2009, but requested they consider implications of the associated management challenges to help the Council and constituents understand those implications and what options would be available to address those issues.

Mr. Wolford requested the STT maintain the CVI information in 2009 as well as the SI and SHM

Mr. Steve Williams moved (Motion 5) to adopt use of the SI and SHM as proposed by the SSC and STT for use in 2009, and to continue use of the Chinook FRAM. Mr. Anderson seconded the motion.

Motion 5 passed. Mr. Wolford voted no.

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

### **E.1 National Marine Fisheries Service Report (11/03/08; 9:34 a.m.)**

#### **E.1.a Southwest Region Activity Report**

Mr. Mark Helvey introduced Mr. Chris Yates, the new Assistant Regional Administrator for NMFS Southwest Region (SWR) Protected Resources Division. Mr. Helvey summarized Agenda Item E.1.a, Supplemental NMFS Report. Council members asked about NMFS's proposed rule to assess a fee for Highly Migratory Species (HMS) permits and the management implications for designating critical habitat for leatherback sea turtles in the west coast Exclusive Economic Zone (EEZ).

#### **E.1.b Southwest Fisheries Science Center Report**

Dr. Gary Sakagawa presented an overview of the results of the Eighth Plenary Meeting of the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific (July 22-27, 2008) and the Fourth Regular Session of the Northern Committee of the Western and Central Pacific Fisheries Commission (September 9-11, 2008); see Agenda Item E.1.b, Supplemental SWFSC PPT.

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

None.

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

None.

### **E.1.e Council Discussion**

None.

## **E.2 Council Recommendations to the Western and Central Pacific Fisheries Commission**

### **E.2.a Agenda Item Overview (11/03/08; 10:29 a.m.)**

Dr. Kit Dahl provided the agenda item overview.

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

Mr. Craig Heberer read Agenda Item E.2.b, Supplemental HMSMT Report. Messrs. Doug Fricke and August Felando provided Agenda Item E.2.b, Supplemental HMSAS Report.

### **E.2.c Public Comment**

Mr. Doug Fricke, Washington Trollers Association, Hoquiam, WA  
Mr. Bob Osborn, United Anglers of Southern California, Surfside, CA

### **E.2.d Council Action: Adopt Recommendations for the Western and Central Pacific Fisheries Commission**

Ms. Culver asked Mr. Helvey about U.S. reporting under Conservation and Management Measure 2005-03. She is uncomfortable making recommendations related to other nations' reporting without having a clear idea of how the U.S. is reporting.

Mr. Helvey said he was unsure about the U.S. report to the Western and Central Pacific Fisheries Commission (WCPFC), although he thought it was similar to reports made to the Inter-American Tropical Tuna Commission (IATTC), which can be found on that organization's website. He also noted that the Council transmitted to NMFS a description of historical U.S. fishing effort on North Pacific albacore (developed by the HMS management team [HMSMT] and Southwest Fisheries Science Center [SWFSC] staff) for submission to the U.S. delegation.

Ms. Culver said that the Council's recommendations to the U.S. delegation should include a request for them to report back to the Council on what the U.S. has reported to the WCPFC in this regard.

Ms. Vojkovich asked Mr. Helvey if he could speak to the bluefin tuna issue brought up in the HMS advisory subpanel (HMSAS) Report. Mr. Helvey noted that the proposed resolution on bluefin tuna that is contained in the briefing materials (Attachment H in Agenda Item E.2.a, Attachment 1) applies only to the WCPFC Convention area while the HMSMT Report implied more of a Pacific-wide issue.

Ms. Culver wondered whether, if the WCPFC adopted a resolution similar to the draft resolution discussed above, the IATTC might take similar action applicable to the eastern Pacific. Mr. Helvey said that is a probable outcome.

Ms. Vojkovich asked if a definition of fishing effort relative to bluefin tuna has yet been developed that might create an issue if these resolutions are adopted. Mr. Helvey said such a definition has not been developed, but the Northern Committee is promoting measures to improve reporting compliance with such resolutions, including how each nation defines current effort.

Ms. Culver said she thought additional information is needed before making a recommendation on illegal, unregulated, and unreported (IUU) high seas drift netting (discussed in the HMSMT Report).

Ms. Vojkovich moved (Motion 6) that the Council communicate their support for the conservation and management measures offered by the Northern Committee, in particular those related to North Pacific and striped marlin. Ms. Fosmark seconded the motion.

Ms. Vojkovich said the Council should focus on those species most relevant to this Council, which may not be the main species of concern for the WCPFC. These species include North Pacific albacore, striped marlin, and bluefin tuna.

In response to a clarifying question from Mr. Moore, she said the resolution focuses on the issues described in the four bullets in the Situation Summary. On another question from Mr. Moore, she said that the motion also includes the earlier discussion related to how fishing effort on bluefin tuna will be defined.

On a clarifying question from Mr. Helvey Ms. Vojkovich said that the recommendation relative to interim reference points for North Pacific albacore supported those in the draft resolution included in the Northern Committee Report (Attachment J), rather than the reference point definition originally proposed by the U.S. at the outset of the Northern Committee meeting.

Motion 6 passed unanimously.

### **E.3 Final Changes to Routine Management Measures for 2009-2010 Season**

#### **E.3.a Agenda Item Overview (11/03/08; 1:05 p.m.)**

Dr. Dahl provided the agenda item overview.

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

Ms. Leann Laughlin presented Agenda Item E.3.b, Supplemental CDFG Report. Mr. Heberer provided Agenda Item E.3.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item E.3.b, Supplemental HMSAS Report. Deputy Chief Mike Cenci provided Agenda Item E.3.b, Supplemental EC Report.

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

Mr. Bob Osborn, United Anglers of Southern California, Surfside, CA  
Mr. Pete Dupuy, Ocean Pacific Sea Food, Tarzana, CA  
Mr. Gary Burke, commercial fisherman, Santa Barbara, CA  
Ms. Meghan Jeans, The Ocean Conservancy, San Francisco, CA  
Mr. Tim McCauley, commercial fisherman, Encinatas, CA  
Mr. Steve Croke, recreational fisherman, Irvine, CA  
Mr. Scott Albers, PEER Research Group, Oceanside, CA  
Mr. Joe Exline, Oceanside Anglers Club, Vista, CA  
Mr. Bill DePriest, Pacific Coast Fishermen Magazine, Newport Beach, CA

### **E.3.d Council Action: Adopt Final Changes for 2009–2010 Routine Management Measures**

Ms. Vojkovich moved and Mr. Wolford seconded a motion (Motion 7), utilizing page 2 of the Supplemental HMSMT Report E.3.b, to adopt the following:

- Continued outreach with fishermen on best practices for increased survivorship of released sharks;
- Continued research on potential gear modifications to improve survivorship of released sharks (gear switch from j-hook to circle hook);
- An updated thresher shark stock assessment utilizing data from both the United States and Mexico fisheries;
- Identification of the spatial/temporal extent of thresher shark pupping grounds and nursery areas;
- Improved collection of recreational data, including catch-and-effort estimates from vessels departing from private access marinas;
- Better estimates of the number and condition of sharks released;
- Improved monitoring and data collection for the commercial shark hook-and-line fishery and for non-HMS fisheries such as bottom set net and small mesh drift gillnet.

And add:

- Obtain available Marine Recreational Information Program funding for enhanced west coast HMS data collection.
- Support California Recreational Fisheries Survey efforts to improved data collection from the private boat fishery, specifically for trips originating from private access locations.

Ms. Vojkovich emphasized that the motion does not include regulatory proposals. The motion focuses on the additional data that needs to be gathered; especially, NMFS should conduct a new thresher shark stock assessment to support revising the harvest guideline.

Mr. Steve Williams asked whether the motion included mandatory data reporting for HMS shark tournaments. Ms. Vojkovich said she did not favor making this a regulatory requirement at this time, noting that several people in public testimony said that this information could be obtained voluntarily.

Mr. Moore raised concerns reflected in testimony about the fishery occurring in the time of year and area where thresher sharks are pupping. Testimony indicated there is a lot of uncertainty about the precise time and location of this activity. He reviewed the discussion of the practicability of requiring gear modifications. In conclusion he said he is reluctantly supporting the motion in hopes of getting better data and information about this species to make better decisions in the future.

Mr. Wolford noted that the motion calls for better data collection on both the recreational and commercial sectors, which was a concern raised in public comment, allowing a future assessment of what regulations might be needed.

While noting the motion's call for improved information gathering, Ms. Fosmark expressed concern that the HMSMT and HMSAS recommendation of a bag limit of one shark per angler was not included. She discussed the reasons why bycatch mortality may be high in this fishery and said she had concerns about the overall future condition of the stock. With that explanation, Ms. Fosmark moved and Mr. Jerry Mallet seconded an amendment (Amendment to Motion 7) to include a one HMS shark per angler bag limit per day of any species. She also supports voluntary reporting from HMS shark tournaments.

Dr. Dahl asked whether the motion referred to one of any HMS shark species or just thresher sharks. Ms. Fosmark replied that in the HMSMT report it specifies one shark per day of any HMS species.

Ms. Vojkovich said she did not support the amendment. She argued that the available data showed that catches were below the harvest guideline and a one shark per day bag limit would have little effect on reducing catches. Therefore such a regulation is unnecessary.

Mr. Myer said he did not support the amendment either, because additional data should be gathered before any regulatory action.

The Amendment to Motion 7 failed, 11 yes, 2 no. Mr. Mallet and Ms. Fosmark voted no.

Mr. Helvey, stating his support of original motion, said data collection is key; he also said the SWFSC would be conducting a thresher shark stock assessment, although he did not know when it would be completed. He said the proposed action could be revisited in the future with a broader perspective including all the HMS sharks.

Mr. Cedergreen asked if continuing studies of bycatch mortality was part of the motion. Ms. Vojkovich referenced current research by the Pflieger Institute for Environmental Research (PIER) and NMFS. Mr. Cedergreen said he thought these studies were important, so Ms. Vojkovich said a bullet can be added to the motion to support studies on the number and condition and survivability of recreationally caught sharks.

Motion 7 passed unanimously.

## **F. Groundfish Management**

### **F.1 Consideration of Inseason Adjustments**

#### **F.1.a Agenda Item Overview (11/03/08; 3:27 p.m.)**

Mr. John DeVore provided the agenda item overview. He mentioned that the default management measures for period 1 in 2009 are those specified for period 1 in 2008 in lieu of an inseason adjustment at this meeting.

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

##### GMT Report

Ms. Kelly Ames provided Agenda Item F.1.b, Supplemental GMT Report.

Mr. Anderson asked about the rationale for reduced petrale sole trawl limits in period 1 of 2009 to address concerns of a market glut and whether that has ever been used as a rationale for reduced limits in the past. Ms. Ames said she was not aware of that rationale being used in the past. Mr. Anderson asked if the concern came from industry and/or the Groundfish Advisory Subpanel (GAP) and Ms. Ames said yes.

Mr. Moore asked for clarification on the rationale to not adopt restrictions for period 6 Conception area sablefish fisheries and whether the concern was to prevent a race for fish upon notification that restrictions would be implemented on December 1 and Ms. Ames said that was an accurate characterization.

Mr. Moore asked about the rationale for reduced petrale sole limits in period 1 next year to prevent a market glut and Ms. Ames said that was not her word choice, but the concern came from GAP members during the specifications process.

Ms. Vojkovich asked if the 2008 petrale sole limit increases were coastwide or north of 40°10' N latitude and Ms. Ames said the recommendation was for coastwide increases.

### GAP Report

Mr. Gerry Richter provided oral testimony on behalf of the GAP. The GAP discussed recommended 2008 and period 1 2009 inseason adjustments with the Groundfish Management Team (GMT) and agrees with the GMT recommendations.

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

None.

#### **F.1.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2008 and Initial 2009 Groundfish Fisheries**

Mr. Moore asked Mr. Lockhart about the likelihood that inseason adjustments to 2008 fisheries could be implemented on December 1 and Mr. Lockhart said that was unlikely.

Mr. Anderson moved and Mr. Moore seconded a motion (Motion 8) to adopt the GMT recommendations on Agenda Item F.1.b, Supplemental GMT Report with the following modification:

- modify the petrale sole limit increase recommendation from north of 40°10' N latitude to coastwide as per the limits shown on Table 1 of that report.

The recommended inseason adjustments as per Motion 8 were as follows:

#### 2008 Recommendations

1. Large footrope trawl gear north of 40°10' N latitude: increase the limit from 45,000 lb/2 months to 60,000 lb/2 months beginning December 1, 2008;
2. All trawl gears south of 40°10' N latitude: increase the limit from 65,000 lb/2 months to 75,000 lb/2 months beginning December 1, 2008; and
3. Maintain status quo limits for the sablefish fisheries in the Conception Area.

#### 2009 Recommendations

1. Increase the 2009 period 1 limited entry trawl cumulative landing limits of sablefish from 14,000 lbs/2 months to 18,000 lbs/2 months north of 40°10' N latitude using large footrope trawls and from 14,000 lbs/2 months to 20,000 lbs/2 months between 40°10' N latitude and 38° N latitude south for all trawl gears;
2. Increase the 2009 period 1 coastwide shortspine thornyhead limits from 12,000 lbs/2 months to 17,000 lbs/2 months for all strategies except the northern selective flatfish trawl strategy;
3. Increase the 2009 period 1 limited entry trawl cumulative landing limit of Dover sole in the south and in the north using large footrope trawls from 80,000 lbs/2 months to 110,000 lbs/2 months;
4. Reduce the 2009 period 1 limited entry trawl cumulative landing limit north of 40°10' N latitude for petrale sole using large and small footrope trawls from 40,000 lbs/2 months to 25,000 lbs/2 months.

5. Extend the seaward boundary of the non-trawl Rockfish Conservation Area (RCA) between Cape Blanco and Cascade Head to 125 fm in period 1 next year;
6. Extend the shoreward boundary of the non-trawl RCA between 40°10' N latitude and Cape Blanco to 20 fm in period 1 next year.

Motion 8 carried unanimously.

Chairman Hansen asked if there was a need to take up final inseason actions under Agenda Item F.4 and Mr. DeVore said no.

## **F.2 National Marine Fisheries Service Report**

### **F.2.a Regulatory Activities (11/04/08; 3:41 p.m.)**

Mr. Frank Lockhart spoke about green sturgeon, noting the comment period was extended 45 more days. The Southwest Region (SWR) and Northwest Region (NWR) are moving toward completion of consultation on this species. Amendment 15 is in the final stages of review and the final rule is going forward soon. The 2009/10 specifications are on schedule and expected to be effective on March 1, 2009. About a year ago, the NWR was to develop an additional intersector allocation alternative for the Council. That has not been done, and the new goal is to get it before the GAC at their January meeting.

Mr. Lockhart spoke about the whiting fishery and the reapportionment/rollover issue. The fishery reopened on October 12 per Council action. Based on the fact that catch rates were increasing and the fishery just opened, reapportionment was not done. But, the request is still out there. In the past industry was surveyed to find out if they were going to continue in the fishery, and the decision has been easy because one or more sectors would not be fishing. However, this year every shore-based catcher vessel they have talked to indicated they would continue to fish, if possible, and the other two sectors have indicated the same. The regulations say the Regional Administrator (RA) needs to determine that the allocation will not be used up before the end of the year. This has been difficult to estimate given the large variation in daily catch rates. However, it is generally not nice fishing weather at this time of year – so it is unlikely that the weather will be good enough to continue fishing throughout the end of the year. Based on that assumption, it is likely some portion of the allocation will be left over at the end of the year. In talking to shoreside processors, they believe the maximum amount they could harvest is likely just short of 20,000 mt. That would leave about 47,000-49,000 mt. This would leave 25,000-35,000 mt that could be reapportioned to the at-sea sector. If he does not hear anything that contradicts the information he has, he would recommend to the RA that some portion of the shoreside allocation be reapportioned to the at-sea fleet. This would allow the shoreside to continue fishing, allow for a little buffer in case processors underestimated their ability to process fish, and allow the at-sea sector to continue fishing as well.

Mr. Moore said that given the uncertainty in the shoreside catch rate, if Mr. Lockhart does do a reallocation, he encouraged him to leave a little buffer to address the uncertainty so you don't wind up with one of the other sectors getting shore-based fish while the shore-based sector has to close down, given how hard this year has been on them.

Mr. Anderson expressed his support for Mr. Lockhart and his staff for working on this. He believes the contacts made with industry to assess the situation have been thorough and the approach consistent with our intent to fully utilize the optimum yield (OY), while ensuring no one sector is pre-empted from taking its share. He supports Mr. Moore's statement about leaving a buffer and agrees with Mr. Lockhart's approach.

### **F.2.b. Northwest Fisheries Science Center Activities**

Dr. Elizabeth Clarke noted the SWFSC has completed its work-up of the 2008 juvenile rockfish survey samples. Results indicate increased abundance of some rockfish species of concern to the Council, especially widow and canary. The Northwest Fisheries Science Center (NWFSC) is processing samples from the northern part of the survey. The bottom trawl survey is finished with no big tows of species-of-concern. Observer reports for fixed-gear-non-nearshore and trawl fisheries are posted on the NWFSC webpage. A new nearshore fixed-gear report has also been posted (basically the live rockfish fishery). The Southern California hook-and-line survey for this year is complete. With the previous four years data analyzed and sent to the appropriate assessment authors we have a nice time series of five years.

Regarding sunset and vermilion rockfish, Dr. Clarke reported 4,000 samples have been collected from the trawl and hook-and-line surveys. The genetics group at NWFSC is identifying all of the samples to obtain data on the distribution of sunset versus vermilion in hopes that a vermilion assessment can be completed in the next cycle.

The hake assessment update is set for February 3-6, 2009 in Seattle. The hake acoustic survey is also good to go with enough ship-time scheduled.

Dr. Clarke spoke to Agenda Item F.2.b, Supplemental NMFS Report, which outlines concerns about the stock assessment list process this year.

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

Mr. Anderson referenced his letter (Agenda Item F.2.c, Supplemental WDFW Report). Mr. Anderson also indicated that WDFW would do remote-operating-vehicle (ROV) work in the summer of 2009, which may provide more information on yelloweye rockfish.

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

Deputy Chief Mike Cenci provided Agenda Item F.2.c, Supplemental EC Report.

Mr. Sones referenced Agenda Item F.2.d, Supplemental Quileute Letter.

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

Mr. David Wright, Pacific Shrimp, Bandon, OR—In support of whiting monitoring.  
Ms. Karen Garrison, NRDC, San Francisco, CA—In support of the SSC report.

### **F.2.e. Council Discussion**

Mr. Anderson noted that WDFW was facing some significant budget cuts and their capacity to work on marine science will be reduced.

## **F.3 Fishery Management Plan Amendment 20-Trawl Rationalization**

### **F.3.a Agenda Item Overview (11/05/08; 8:07 a.m.)**

Mr. Dale Myer reported that he will be recusing himself from the discussions and the votes on items related to the mothership sector. Mr. Jim Seger provided the agenda item overview.

### **F.3.b Review of Alternatives and Options**

Mr. Seger reviewed Agenda Item F.3.b, Supplemental Key Decisions.

### **F.3.c Review of Analysis**

Mr. Merrick Burden, Ms. Heather Brandon, Dr. Steve Freese, and Mr. Seger provided the following PowerPoint presentations.

Agenda Item F.3.c, Supplemental Analysis PPT 1

Agenda Item F.3.c, Supplemental Analysis PPT 2

Agenda Item F.3.c, Supplemental Analysis PPT 3

A break taken and review of analysis was continued (11/05/08; 9:57 a.m.).

### **F.3.d. NOAA General Counsel Comments (11/05/08; 10:24 a.m.)**

Ms. Mariam McCall, spoke in general about Agenda Item F.3d, Supplemental National Oceanic and Atmospheric Administration (NOAA) General Counsel (GC) Comments. She reminded Council members about the need for a proper written record. The letter spoke about anti-trust issues and Department of Justice (DOJ) consultations. The statements in the letter reflect NOAA GC, not the DOJ. The first issue is whether there is expressed or implied immunity from antitrust laws. The interpretation is that there is no implied immunity.

Ms. McCall also referenced a NOAA technical memorandum (Agenda Item F.3.d, Supplemental LAPP Guidelines). [http://www.pcouncil.org/bb/2008/1108/F3d\\_SUP\\_LAPP\\_1108.pdf](http://www.pcouncil.org/bb/2008/1108/F3d_SUP_LAPP_1108.pdf)

### **F.3.e Recommendations of the Groundfish Allocation Committee (11/05/08; 11:08 a.m.)**

Dr. McIsaac summarized Agenda Item F.3.e, GAC Report.

### **F.3.f Reports and Comments of Agencies and Advisory Bodies**

#### **CDFG**

Ms. Vojkovich spoke to Agenda Item F.3.f, CDFG Report (Response to GAC Comments on Adaptive Management). She asked CDFG Deputy Director Mr. Sonke Mastrup to speak to the Council. Mr. Mastrup said that in deliberating over an Individual Transferable Quota (ITQ) program, the Council needs to fully state the expectations of state resources. If the state is asked to carry a financial burden with the ITQ program, then the funds need to be given to the state to carry out the program.

Mr. Moore asked Mr. Mastrup what the results would be if the ITQ program is passed with no resources identified to carry out the program? Mr. Mastrup replied they will not carry out the program.

Ms. Vojkovich identified the following issues as important to California:

- Personal accountability. It should be the top priority and we should be looking for ways that it can happen (e.g., ownership of quota shares).
- Full cost recovery from all sectors receiving benefits from this program.
- Assignment of quotas into perpetuity. This is important in terms of the cost of quota shares, personal expectations, and public perception.

- Communities. Those concerns need to be dealt with through discussions about accumulation limits, control limits, vessel length limits, and industry consolidation.
- Assignment of overfished species and the initial allocation of quota shares for those species. She is not sure if catch rates and history are appropriate measures to deal with that.

## **WDFW**

Mr. Anderson addressed Agenda Item F.3.f, WDFW Report, which concerns the adaptive management element of the program. He read the following from that report “In summary, WDFW’s vision of the adaptive management program is one where quota is distributed amongst the states and then awarded based on independent, state-based processes designed to maximize local expertise and achieve local priorities. Minimizing adverse effects from the IFQ program on fishing communities and other fisheries to the extent practical is one of the eight objectives of the trawl rationalization program. In WDFW’s view, this objective should be the primary objective guiding the distribution and use of adaptive management quota at the start of the program and should remain so until the Council has better information on the performance and effects of the IFQ system. Lastly, processing businesses are key components of fishing communities and the basic social and cultural framework of the fishery that the Council is required to consider in the design of the trawl rationalization program. Their economic stability and sustained participation should therefore also be important considerations in the design of the adaptive management program and its objectives.”

Mr. Anderson reported that WDFW had an opportunity to speak to stakeholders about their perspectives of the program on Tuesday evening (11/04/08). He noted we should keep our eye on the ball in terms of reminding ourselves of the program’s goal and the eight objectives. Increasing net economic benefits for full utilization of the resource is a key component, as well as safety. He has concerns about excessive consolidation and would like to keep the fishery as diversified as possible. He is concerned about the accumulation of wealth without corresponding benefits to the nation. Mr. Anderson is mindful of unnecessary government management of the fisheries to the extent that industry participants can address their issues through cooperative efforts (less regulation to solve problems). Geographic consolidation is also a concern. He is interested in a statewide and coastwide perspective too (product flow for communities that depend on this fishery). He concurred with the budget concerns and implications as laid out by CDFG. WDFW is facing the biggest budget crisis they have ever faced as an agency and over the course of the next 2.5 years. The need to create an electronic fish ticket system along with the individual quota (IQ) is a big concern from the states standpoint of needed resources to implement those types of programs.

## **IPHC**

Mr. Gregg Williams referenced Agenda Item F.3.h, Supplemental IPHC Letter.

*The staff of the International Pacific Halibut Commission (IPHC) has reviewed the Trawl Rationalization analyses as it pertains to management of Pacific halibut bycatch. We offer the following comments for your consideration:*

*Halibut Individual Bycatch Quota (IBQ) - The Council has an option for an IBQ program within Amendment 20. The IPHC staff strongly supports this option. As we have observed in the trawl fishery in British Columbia, these types of programs provide the fishing industry with the necessary tools to reduce the bycatch of nontarget and prohibited species, including halibut. A strong observer presence is required to enable the necessary monitoring of bycatch. The rationalization plan discusses the need for a high level of observer coverage, not only for the IBQ option but also for the overall program. This will*

*undoubtedly be an expensive component but is necessary to fully realize and verify the potential efficiencies available from rationalization.*

*Basis of trawl allocation for IBQs - The latest proposal by the Washington Department of Fish and Wildlife is to set the permissible trawl bycatch as a proportion of the Total CEY from 2005-2006 of ~15%. The conclusion in the analysis is that, under IQs, the trawl fishery should be able to reduce its halibut bycatch over time. However, we suggest that the Council consider the same framework for bycatch control as is followed in other jurisdictions. That is, the bycatch should be identified in the form of a Prohibited Species Catch (PSC) limit, not an allocation. The IPHC and other agencies do not recognize halibut bycatch mortality as an allocation, both because it is conceptually incorrect from a yield perspective, and an allocation of halibut can only be made for retention by legal halibut gear (hook and line).*

*The PSC limit should also be associated with a mechanism, timeline, and target for reducing it from the initial level. A PSC limit should not be tied to the CEY of adult halibut because the abundance of sub-legal halibut is not indexed by the CEY of legal-sized halibut. Instead, the procedure followed in other jurisdictions is to identify the PSC limit for non-target fisheries and implement procedures to reduce that limit over time, to the benefit of the directed sport, commercial and treaty tribal fisheries.*

## **NMFS**

Mr. Frank Lockhart reported on the main items drawing his attention as we hear public testimony. He referenced his comments from the December 2006 GAC meeting and noted that moving toward limited access privilege programs (LAPP) is and will continue to be a priority for the administration. The primary reason that NOAA is supporting LAPPs is the benefit to be gained by ending the race for fish. LAPPs do a great job of lining up conservation issues with fishermen's economic goals. The Magnuson-Stevens Act (MSA) requirements with respect to communities are also very important. With regard to the rumor that NMFS will not implement the program because it is too costly, he said that is possible, but at this point in time he didn't think that decision was made. He has heard from Dr. Balsinger that there is a strong push to get the funds for this program. Costs do have to be a consideration; did he does not think costs would kill this LAPP.

Mr. Lockhart also spoke to Ms. McCall's comments about developing a strong record. There are a lot of policy decisions in developing a LAPP which will require judgment from the Council members. Science can help some, but it is mainly a policy call. Council members will have to show the reasons for the paths that they took in making this decision.

Mr. Lockhart noted that this is going to take a bit of time for the Federal government to implement. There is going to be a lot of regulatory, legal, and policy work that is required.

Mr. Lockhart then spoke about the adaptive management program (AMP) and consequences to the communities which are a paramount concern. The AMP could be used to address conservation concerns (e.g., bycatch or incentives for those with less bycatch). The government is strongly supportive of AMPs to resolve such issues. He also agreed with Ms. Vojkovich and Mr. Anderson about the components of a LAPP program that align conservation and accountability incentives.

Regarding the costs and long-term permanent allocation, he expressed concerns about the components of the program that make LAPPs look like property. The rights granted are a potential source of revenue

from a valuable fishery and auctions are a way to generate funds for the future. He is interested in hearing from the public on ideas for auctions or their opinion of auctions.

**ODFW (11/05/08; 1 p.m.)**

Mr. Steve Williams noted that in making its decision, the Council needs to avoid as many negative impacts as possible while trying to maintain the character of the fleet, realizing a rationalization program will change the character of the fleet with regard to reducing impacts on the resource and with regard to consolidation of the fleet. When he listens to public testimony, he will be listening for ideas and concerns the industry has pertaining to adaptive management. There is a preferred alternative for three sectors; he would like to hear public testimony on those three or possibly four sectors. He is still unclear on how the Council can best handle accumulation limits, so he would like to hear from public testimony any ideas the public has regarding cumulative limits and if they could focus their comments on that subject. He echoed comments regarding funding, and noted that not only the Federal government, but state governments too would have to deal with funding to carry out the program. Lastly, he noted that the Council needs to make a decision to move forward with the program on Friday; so the Council would leave with some parameters for a program, and not keep putting off the decision to get started until a later date.

**Advisory Bodies**

Mr. Mallet said the Budget Committee (BC) had a lot of discussion on the funding or lack of funding issue. The BC was going to make a statement at this time, but after hearing the comments from the states and NMFS, the BC's concerns were already laid out in earlier discussions.

Dr. Steve Ralston provided Agenda Item F.3.f, Supplemental SSC Report. Ms. Kelly Ames and Mr. Robert Jones provided Agenda Item F.3.f, Supplemental GMT Report. Ms. Heather Mann provided Agenda Item F.3.f, Supplemental GAP Report. Mr. Seger read Agenda Item F.3.f, Supplemental SAS Report. Mr. Dayna Matthews provided Agenda Item F.3.f, Supplemental EC Report.

**F.3.g Hearings Summaries (11/05/08; 3:09 p.m.)**

Mr. Dale Myer summarized Agenda Item F.3.g, Supplemental Hearing Report (1) Olympia. He did say that NOAA GC has asked him to recuse himself from the mothership piece of the report, so Mr. Mark Cedergreen will summarize that portion. Mr. Frank Warrens summarized Agenda Item F.3.g, Supplemental Hearing Report (2) Astoria. Mr. Rod Moore summarized Agenda Item F.3.g, Supplemental Hearing Report (3) Newport. Mr. Dan Wolford summarized Agenda Item F.3.g, Supplemental Hearing Report (4) Eureka. Ms. Kathy Fosmark summarized Agenda Item F.3.g, Supplemental Hearing Report (5) Santa Cruz.

**F.3.h Public Comment (11/05/08; 3:28 p.m.)**

Ms. Julie Sherman, Marine Fish Conservation Network, Portland, OR  
Mr. Chris Voss, California Abalone Association, Santa Barbara, CA  
Ms. Karen Garrison, NRDC, San Francisco, CA  
Ms. Laura Pagano, NRDC, San Francisco, CA  
Mr. Barry Cohen, Olde Port Fisheries, Avila Beach, CA  
Mr. Pierre Marchand, Jessie's Ilwaco Fish Company, Ilwaco, WA  
Mr. Larry Holly, F/V Margret E., Coos Bay, OR  
Ms. Leesa Cobb, Port Orford Resource Team, Port Orford, OR  
Mr. Zeke Grader, PCFFA, San Francisco, CA  
Ms. Meghan Jeans, Ocean Conservancy, San Francisco, CA

Ms. Jan Kansien, The Nature Conservancy, San Francisco, CA  
Mr. Gene Bugatto, California Shellfish Company, Inc., San Francisco, CA  
Mr. Doug Heater, Bornstein Seafoods, Astoria, OR  
Ms. Ann Espedal, Bornstein Seafoods, Astoria, OR  
Mr. Ralph Brown, trawler, Brookings, OR

Thursday public testimony 8 a.m.

Mr. Robert Alverson, Fishing Vessel Owners Association, Seattle, WA  
Mr. Ben Bowman, Food and Water Watch, San Francisco, CA  
Mr. Shaun Cutting, F/V Bernadette, F/V Cape Foulweather, Charleston, OR  
Mr. Gerald Gunnari, F/V Coast Pride, Charleston, OR  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Denny Burke, F/V Timmy Boy, Newport, OR  
Mr. Jerry Bates, Bates Fish Company, Newport, OR  
Mr. John Gillespie, F/V Windwalker, Santa Margarita, CA  
Mr. Kevin Dunn, F/V Iron Lady, Astoria, OR  
Mr. Paul Kujala, F/V Cape Windy, Warrenton, OR  
Mr. Rick Algert, Harbor Master, City of Morro Bay, CA  
Mr. Tommy Ancona, Tommy's Marine Service, Fort Bragg, CA  
Mr. Vince Doyle, F/V Verna Jean, Fort Bragg, CA  
Mr. Brian Jourdain, F/V Pacific Blue, Fort Bragg, CA  
Mr. Tom Estes, Jr., F/V Tara Dawn, Fort Bragg, CA  
Mr. Ron Hensley, Pacific Choice Seafoods, Eureka, CA  
Mr. Owen Hooven, Pacific Choice Seafoods, Eureka, CA  
Mr. Darin Reef, trawler, Astoria, OR  
Mr. Mark Bowers, trawler, Astoria, OR  
Mr. Bruce Campbell, fisherman, Eureka, CA  
Mr. Mike Anderson, fisherman, Eureka, CA  
Mr. John Holt, trawler, Eureka, CA  
Mr. Jason Moon, F/V Grumpy J, White City, OR  
Mr. Brett Hearne, F/V Last Straw, Newport, OR  
Mr. Dennis Rankin, Rankin Fish Inc., Astoria, OR  
Mr. Blair Miner, Fishermen's Marketing Association, Astoria, OR  
Mr. Lloyd Whaley, F/V Miss Sarah, Brookings, OR  
Ms. Denise Vandecoevering, F/V Chellisa Michelle, Garibaldi, OR  
Mr. Gerry Hemmingsen, trawler, Crescent City, CA  
Mr. Bill James, fisherman, Salem, OR  
Mr. Randy Smith, trawler, Crescent City, CA  
Mr. Robert Smith, fisherman, Newport, OR  
Mr. Robert L. Seitz, trawler, Chinook, WA  
Mr. Mark Cooper, Cooper Fishing Inc., Toledo, OR

Thursday public testimony starting at 1 p.m.

Mr. Matt Love, Ocean Beauty Seafoods, Seattle, WA  
Dr. Richard Young, Harbor Master, Crescent City, CA  
Mr. Kurt Cochran, F/V Marathon, Newport, OR  
Mr. Omar Allison, trawler, Bellingham, WA  
Mr. Craig Cochran, F/V Bay Islander, Newport, OR  
Mr. Kelly Smotherman, F/V Miss Mary, Warrenton, OR

Mr. Tom Estes, F/V Tara Dawn, Fort Bragg, CA  
Ms. Kelley Rankin, Rankin Fish, Inc., Astoria, OR  
Ms. Julee Estes, F/V Tara Dawn, Fort Bragg, CA  
Ms. Michelle Lee, Pacific Shrimp Company, Newport, OR  
Mr. Dave Wright, Bandon Pacific Seafoods, Newport, OR  
Mr. Wylde Gillen, Pacific Shrimp Company, Newport, OR  
Mr. Wayne Edgerton, Bandon Pacific Seafoods, Newport, OR  
Mr. Marion Larkin, trawler, Mt. Vernon, WA  
Ms. Donna Parker, mothership sector, Seattle, WA  
Mr. Chris Garbrick, UCB, Seattle, WA  
Ms. Ann Samuelson, Clatsop County Commision, OR  
Mr. Ray Toste, Washington Dungeness Crab Fishermen's Association, Westport, WA  
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR  
Mr. Todd Whaley, F/V Miss Sarah, Brookings, OR  
Mr. David Pettinger, trawler, Harbor, OR  
Mr. Pete Leipzig, Fishermen's Marketing Association, McKinleyville, CA  
Mr. Travis Hunter, trawler, Fields Landing, CA  
Ms. Moriah Bettencourt, trawler, Half Moon Bay, CA  
Mr. John Henderschedt, Premier Pacific Seafoods, Seattle, WA  
Mr. David Jincks, Midwater Trawlers Cooperative, Newport, OR  
Mr. Richard Carroll, Ocean Gold Seafoods, Westport, WA  
Mr. Dennis Rydman, Ocean Gold Seafoods, Westport, WA  
Mr. Joe Plesha, Trident Seafoods, Newport, OR  
Mr. Chris Riley, Trident Seafoods, Newport, OR  
Mr. Bill Oliveria, Trident Seafoods, Newport, OR  
Mr. Colin Bornstein, Bornstein Seafoods, Bellingham, WA  
Mr. Andrew Bornstein, Bornstein Seafoods, Bellingham, WA  
Master Ross Rydman, Ocean Gold Seafoods, Westport, WA  
Mr. Tom Libby, Point Adams Packing Company, Astoria, OR  
Mr. Steve Aarvik, F/V Wind Jammer, Lynnwood, WA  
Mr. Dick Helberg, Warrenton City Council, Warrenton, OR  
Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR  
Mr. John Bundy, Glacier Fish Company, Seattle, WA  
Mr. Jerry Boisvert, Pacific Coast Seafoods, Warrenton, OR  
Mr. Rick Harris, Pacific Choice Seafoods, Eureka, CA  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Chris Peterson, UCB, Seattle, WA  
Mr. Bert Parker, UCB, Seattle, WA

Friday public testimony, 8 a.m.

Mr. Peter Grenell, San Mateo County Harbor District, South San Francisco, CA  
Mr. Joe Bersch, Supreme Alaska Seafoods, Seattle, WA  
Mr. Frank Dulcich, Pacific Seafood Group, Clackamas, OR  
Mr. Stuart Nelson, Nelson Bros. Fisheries, Inc., Surrey, BC, Canada  
Mr. Mike Okoniewski, Pacific Seafoods, Woodland, WA  
Mr. Jim Caito, Caito Brothers, Fort Bragg, CA  
Mr. Jay Bornstein, Bornstein Seafoods, Bellingham, WA  
Ms. Carol White, Bornstein Seafoods, Bellingham, WA  
Mr. Chris Lubetich, Bornstein Seafoods, Bellingham, WA  
Ms. Johanna Thomas, Environmental Defense, San Francisco, CA

Mr. Shems Jud, Environmental Defense, Lake Oswego, OR  
Ms. Dorothy Lowman, Environmental Defense, Portland, OR  
Mr. Gary Winterstein, fisherman, Warrenton, OR  
Mr. Jim Seavers for Mr. Mike Retherford, F/V Excalibur, Newport, OR  
Ms. Danene Lethin, F/V Ballard, Chinook, WA  
Mr. David Lethin, F/V Ballard, Chinook, WA  
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR  
Ms. Lynn Langford Walton, trawler, Soquim, WA  
Mr. Allan Oakley, F/V Sound Leader, Blaine, WA  
Mr. Michael Bell, The Nature Conservancy, San Luis Obispo, CA  
Ms. Margaret Spring, The Nature Conservancy, CA  
Ms. Erika Feller, The Nature Conservancy, CA  
Mr. Will Stelle, The Environmental Defense Fund, Seattle, WA  
Mr. Tony Vandecoevering, F/V George Allen, Garibaldi, OR  
Mr. Bryan Salo, trawler, Astoria, OR  
Mr. Mark Scheer, Attorney representing trawlers, Seattle, WA  
Mr. Mike Hyde, American Seafoods Company, Seattle, WA  
Ms. Angela Wratchford, F/V Mandy J, Eureka, CA  
Ms. Janna Bird, Eureka, CA

**F.3.i Council Action: Adopt Final Preferred Alternative for Draft Environmental Impact Statement (11/07/08; 3:58 p.m.)**

Mr. Lockhart started out by noting the administration's support of limited access privilege programs.

Mr. Anderson noted that regardless of today's outcome, follow-up action on the part of the Council will be required and he provided history of the groundfish limited entry program from the first adoption of a control date in July of 1987 through development of a groundfish strategic plan to where it is today. There will be some implementation concerns including NMFS and state capacity to implement the program from a human resource perspective, along with fishermen's ability to pay for the program. Mr. Anderson then spoke to his philosophy on the role of government. Our economy relies on competition and on individuals and businesses acting in their own self interest for growth, innovation, price setting, and the allocation of resources. Government should not interfere in business competition unless it is necessary for the public benefit. The Council interferes with harvesting businesses because of problems identified relative to conservation and management both in the nonwhiting and whiting fishery. When we intervene in harvesting we cannot help but also interfere with the processing businesses by changing the basic bargaining dynamics in the raw fish product market. We should leave exvessel price negotiations up to the harvesters and processors but we cannot ignore how our actions might influence those negotiations. Under status quo, the section on marketing power states that processors are in a strong position to exert bargaining power (starting on Page A-60 and on page A-67). Some concerns about transitioning to IFQ are: consolidation of fleet and shifts in the timing and geography of landings (Chapter 4, 307-309). Because of this reshuffling, communities and processors that are dependent on the fishery face some or a lot of uncertainty about their economic future and viability (Chapter 4, Page 407). WDFW has been consistent in its expression of concern about communities in Washington, many of which have been adversely and disproportionately affected by the trip limit system. In addition, not unlike California, the buyback program also reduced the number of trawl boats delivering in Washington. Through this program various ideas have been proposed to address community stability and geographic dispersion of the fleet, including adaptive management, allocation to processors, and the concept of regional landing zones.

With respect to allocation to processors, Mr. Anderson noted the MSA LAPP provisions in Section 303A(5) require that the Council ensure fair and equitable initial allocations, including consideration of (1) current and historic harvests, (2) employment in the harvesting and processing sectors, (3) investments in and dependence on the fishery, and (4) the current and historical participation of fishing communities. Congress specifically instructed the Council to fully analyze alternative program designs, including the allocation of limited access privileges to harvest fish to fishermen and processors.

Two motion packages have been presented (Agenda Item F.3.i, Supplemental WDFW Motion, Package 1 and Supplemental WDFW Motion, Package 2). The packages differ only with respect to the shoreside fishery. Separate packages were presented because Mr. Anderson was aware of divergent views on the Council with respect to the best approach to be used in managing the shoreside fishery. In the packages, the term “trailing action” was used to describe additional action that would be needed to support the foundational decisions at this meeting, prior to the submission of the package to NMFS, and the term “trailing amendment” was used to reference any decisions that would be implemented in a separate regulatory or plan amendment.

Mr. Anderson began with Motion #1 of Agenda Item F.3.i, Supplemental WDFW Motion Package 1. He moved and Mr. Cedergreen seconded a motion to adopt the following as the Council’s preferred alternative with respect to the general provisions for whiting co-ops (Motion 19).

<b>Motion 19</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
<i>General Provisions - Whiting Co-ops</i>		
		The mothership and catcher-processor sectors will be managed under a co-op system rather than an IFQ system
Bycatch Rollover	B-1.3.2	Option 1 – Unused bycatch may be rolled over from one sector to another if the sector's full allocation of whiting has been harvested or participants do not intend to harvest the remaining sector allocation
Bycatch Management	B-1.3	Subdivide bycatch among whiting sectors and within sectors, subdivide between co-op and non-co-op fishery and among co-ops within sectors
At-Sea Observers/ Monitoring	B-1.4	Include as specified
Mandatory Data Collection	B-1.5	Include as specified

Mr. Mark Cedergreen seconded the motion (Motion 19).

Mr. Myer said that he would recuse himself from the discussion and vote on this motion and the second motion in the WDFW motion package. In response to a question, Mr. Anderson confirmed that the omission of Section B-1.2 was intentional. Motion 19 passed with Mr. Myer recusing.

Mr. Anderson moved and Mr. Cedergreen seconded a motion (Motion 20) to adopt as the Council’s preferred alternative for the mothership sector (Motion #2 of Agenda Item F.3.i, Supplemental WDFW Motion, underlined sections indicate changes from the preliminary preferred alternative):

<b>Motion 20</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
<i>Mothership (MS) Sector</i>		

<b>Motion 20</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
Groundfish LE Permit Length Endorsement	B-1	Retain the length endorsement for permits, with two modifications: 1) If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel); and 2) to add length to a permit, additional permits required (as needed), but only one endorsement would be required for all combined permits (i.e., do not need to acquire multiple endorsed permits).
Processor Participation	B-2.1a & c & B-2.2c	As specified for CVs and processors. Vessels excluded: Motherships operating as a catcher-processor may not operate as a mothership during a year in which it also participates as a catcher-processor
Catcher Vessel Allocations	B-2.2a	Qualifying for a CV whiting endorsement in the MS fishery: minimum 500 mt in 1994-2003
		Catch history assignment: 1994-2003, drop 2 years
		Bycatch history assignment: Pro-rata in proportion to whiting catch assignment
Whiting Endorsement Transferability	B-2.2b	Transfer Option 1 - The CV whiting endorsement may <u>not</u> be severed from the permit
		<u>CV permits may be transferred two times during the fishing year, provided that the second transfer is back to the original CV (I.e., only one transfer per year to a different CV).</u>
MS Processor Permit Qualification	B-2.2a	Qualifying Entities: The owner or bareboat charterer of qualifying motherships will be issued MS permits
		Qualification Requirements: Minimum requirement of 1000 mt of whiting in any two years, 1997-03
MS Processor Permit Transferability	B-2.2c	Transferability: MS permits will be transferable and MS permits may be transferred to a vessel of any size
		Option 1 - MS permits may not be transferred to a vessel engaged in harvest of whiting in the year of the transfer
		Modified Option - MS permits may be transferred two times during the fishing year, <u>provided that the second transfer is back to the original mothership (I.e., only one transfer per year to a different mothership).</u>
		Usage Limit: No individual or entity owning an MS permit may process more than <u>45%</u> of the total MS sector whiting allocation
Co-op Formation	B-2.3.1	Co-ops are not required, but may be voluntarily formed. A minimum of 20% CV permit holders is required to form a co-op. This minimum threshold balances the potential advantages for multiple co-ops while limiting implementation and management costs and administrative requirements for managing this sector.
		Subdivide whiting between co-op and non-co-op fishery and among co-ops within sectors.
		In the event there is more than one co-op, whiting and bycatch QP will be transferable between co-ops through an inter-co-op agreement.

<b>Motion 20</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
		The non-co-op fishery will close based on projected attainment of their allocation of either whiting or one or more bycatch species
Co-op Agreement Provisions	B-2.3.3e	Include as specified. The intent is to have MS participants work with NMFS to develop and describe a process and co-op agreement requirements to include in the implementing regulations for this action.
Initial Ties to the Motherships	B-2.4.1	<u>No processor tie. By September 1 of the year prior to implementation and every year thereafter, CV permit is required to contact NMFS and indicate whether CV permit will be participating in the co-op or non-co-op fishery in the following year. If participating in the co-op fishery, then CV permit must also provide the name of the MS permit that CV permit QP will be linked to in the following year (i.e., annual CV-MS linkage that may be changed each year without requirement to go into "open access" fishery). Once established, the CV-MS linkage shall remain in place until changed by CV permit.</u>
		<u>By July 1 of the year prior to implementation and every year thereafter, if CV permit would be participating in the co-op fishery in the following year, then CV permit must notify the MS permit that the CV permit QP will be linked to in the following year.</u>
		In the event there is agreement between the CV permit holder and the MS permit holder to which it is linked, the QP may be transferred to another MS permit.
MS Processor Withdrawal	B-2.4.2	<u>If the MS permit withdraws subsequent to QP assignment, then the CV permits that it is linked with is free to participate in the co-op or non-co-op fishery. The MS permit shall notify NMFS and linked CV permits of its withdrawal, and CV permits shall notify NMFS of their intent to participate in the co-op or non-co-op fishery thereafter. If continuing in co-op fishery, then CV permit shall provide NMFS with the name of the MS permit for new linkage.</u>

Mr. Lockhart noted that the requirement that ties be identified prior to September 1<sup>st</sup> may be awkward in the first year if implementation occurs after September 1<sup>st</sup>. He said the NMFS intent would be to announce as far in advance as possible when this is implemented. Mr. Anderson stated that there should be flexibility to adjust that date in the first year so that it would not delay implementation.

Motion 20 passed. Mr. Myer recused himself.

Mr. Anderson moved and Mr. Myer seconded Motion #3 of the WDFW motion package (Motion 21), to adopt as the Council's preferred alternative for catcher-processor sector:

<b>Motion 21</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
<b><i>Catcher Processor Sector</i></b>		
General Provisions	B-4	Adopt a co-op for the catcher-processor sector; include provisions as specified
		Specify harvest amounts in regulation for co-ops.

Motion 21		
Topic	Section	Council Preferred Alternative
		Do not require unanimous consent for a member to leave the co-op
		If the voluntary co-op fails, then QS will be divided equally among ten CP permits in sector
		Catcher processor cannot operate as a mothership during the same year it participates in the CP fishery
		Mandatory data collection included
		Annual co-op report required
		Bycatch: The CP sector fishery will close based on projected attainment of its bycatch allocation
CP Endorsement		Create a catcher-processor endorsement to be placed on qualified limited entry permits. Qualified permits are those that harvested and processed in the catcher-processor sector of the whiting fishery sometime from 1997-2003. Limited entry permits with catcher-processor endorsements will continue to be transferable; however, the endorsement is not severable from the permit.
Permit Transfer		<u>CP permits may be transferred two times during the fishing year, provided that the second transfer was back to the original CP (I.e., only one transfer per year to a different CP).</u>
Length Endorsement		<u>Retain the length endorsement for permits, with two modifications: 1) If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement; and 2) to add length to a permit, additional permits required (as needed), but only one endorsement would be required for all combined permits (i.e., do not need to acquire multiple endorsed permits).</u>

Ms. Vojkovich questioned the rationale for the length endorsement provisions. Mr. Anderson indicated that the provisions existed under status quo but that the rules for combining permits when there is a new type of endorsement needed to be addressed. Mr. Myer responded that in public testimony we heard that as the program moves forward people may want to lengthen their vessels to add more efficiencies such as a meal plant or oil plant. This would allow them to do that by not requiring that the permits that are being combined have the same sector endorsements. Motion 21 passed unanimously.

Mr. Lockhart noted that NMFS has made a preliminary determination that both the mothership (MS) sector and catcher-processor (CP) sector will be defined as a LAPP under the MSA. As part of that, in order to monitor and enforce the system, NMFS would be issuing a permit to the co-ops. This would mean that the cost recovery provisions would apply to these two sectors.

Mr. Anderson noted that in package #1, Motion #4 applies to shoreside whiting and non-whiting fisheries; but, in package #2, Motion #4 is for shoreside whiting only. Ms. Vojkovich moved and Ms. Fosmark seconded a motion (**Motion 22**) that the Council manage the shoreside non-whiting fishery under status quo management.

Ms. Vojkovich said that there has been opposition to the individual fishing quota (IFQ) program in public testimony, in comments at the hearings, and over the last two years since the state had in-state meetings. She has reviewed the documents to determine where the IFQ program would be a better way of doing business. She also examined the goals and objectives to see how current management might, with some

variation, meet those needs. She looked at what might be generated out of this fishery if we have IFQs. She was not seeing where there would be an economic payback for the fleet. Economics is one of the major portions of the goal of the entire program.

Ms. Vojkovich said that for the IFQ to work, consolidation is required. We have heard that the savings would be somewhere around \$14 million. If we are going to have that cost savings realization, consolidation has to happen quickly. We cannot wait. If we have a slow consolidation, which is what is expected to save communities (e.g., low accumulation caps) she questioned whether the consolidation will happen quickly enough. While we are waiting for the benefits of consolidation, there will be real costs to bear every day (tracking, monitoring, and enforcement). An assumption that underlies the \$14 million is that we are expected to gain in the volume of the fish landed and that processors will buy the fish. The price of the fish paid to fishermen will not increase. The only increased value is from the increase in the amount of fish, not the price.

This increased volume is expected to offset the upfront cost to acquire the additional shares in order for consolidation to occur. However, in order for this to happen, the markets have to be able absorb the additional catch volumes immediately. There must be an immediate demand in order to realize the benefits needed to offset costs. If we have a use it/lose it program, that works against markets. You lose the fish because you haven't used it but you can't deliver it because there is no market for it. You may be able to access more of the OY if you are carrying observers and it turns out you are avoiding bycatch and able to land more target species. But right now there is not a major financial benefit that will support the fishermen as they bear the costs of the program, or while the market develops for the extra fish that might be produced from the program. There is nothing in the program to change the RCAs, so accessing more fish there will be difficult. She did not know how we would move forward with an IFQ program with no place to sell the extra fish, and no extra value out of it.

Ms. Vojkovich also noted that we would be allocating catch shares based on historical landed catch, but that vessels would need those shares to cover catch, not landings. Therefore, vessels may not receive enough to cover their discards. Therefore, people will not start out "whole" with respect to their need for quota shares (QS).

There are only one to three target species that actually generate money for the shoreside fishery. Going through CDFG logbooks, median exvessel trawl fleet value for one of the major revenue species, sablefish, was less than \$2,000 a day. If observers cost \$350 a day, that's almost 18 percent of the daily amount. Then there is the 5 percent fee for the buyback program and the program administration cost of 3 percent. If you don't have enough sablefish to cover your discards you'd need another 17-18 percent to cover your sablefish discard rate. You end up with potentially half the amount of money you are currently making today. She is trying to find in the document information on the potential revenue for the fleet relative to what they are making today. She can only find speculation in the document. During testimony, the processors indicated that "someday" the market would develop for the additional fish. So she is concerned that for the shorebased fishery we really don't have a clear idea of what we are setting ourselves up for. She is not saying that IFQs are not where we need to go. While she hopes the predictions develop, she is not sure and does not see a lot of concrete evidence for it in the document. She is concerned that many people will be put out of business and we will end up worse off than we are now.

She then discussed whether there is a way to get total catch accounting without going to IFQs. Fishermen have been talking a lot about full retention as an option. How do we promote practices that reduce bycatch and discard mortality? Since most of the discards are regulatory, she suggested the possibility of a longer trip limit period. This would give people an opportunity to catch more fish, avoid the bycatch and discard mortality. It would also increase operational flexibility. The objectives state that we should

minimize adverse effects of the IFQ program. The California communities and constituents would be very negatively impacted by going to an IFQ program right now. Another objective is safety. A longer trip limit period would promote safety. With respect to the promotion of economic benefits throughout the industry, she noted that under an IQ program California could lose fishermen and ports. Status quo will not exacerbate those issues. In summary she does not see solid evidence that this is going to be better.

Dr. Dave Hanson asked if it was the intent of the motion that all work on rationalization for the non-whiting fleet would cease and there would be no trailing amendments or actions?

Ms. Vojkovich said we should continue forward to get real analysis characterizing the current fleet, the initial allocation, and the quantification of benefits. How many people will be consolidated out and how many people will have to buy up to get to where they are currently. She does not have a clear picture of that.

Mr. Steve Williams said he would not support Motion 22. In the executive summary of the analysis it states that the “trawl fishery is currently viewed as economically unsustainable due to the number of participating vessels, excess capacity, a regulatory approach that constrains efficiency, and the status of certain groundfish stocks along with the measures in place to protect those stocks.” One of the challenges that the Council faces is that there are differences among the state fisheries. While we heard testimony in support of status quo, over the last year we have also heard public testimony to the effect that it is critical that we move forward on this. We have heard that even after the buyback we are still over-capitalized. With respect to the objectives, he had been told they cannot be attained without an IFQ program. IFQ will decrease harvesting costs, and markets will develop over time. Assumptions are that it will result in increased revenues, safety, higher profits and a better chance at achieving OYs. There has been extensive analysis. There is no doubt that more analysis could be done. He does not believe that after five years of work we should step away from what we have come down to for a preferred alternative. This has been talked out, all of the analysis has been examined, and without a change in the approach, such as IFQs, these non-whiting trawl fisheries are going to crumble; they will not be sustainable in the future. If there is a delay we will lose momentum and never get back to this point again.

Mr. Myer shared many of Ms. Vojkovich’s concerns that the package is not ready to move forward; but at the same time shares the sentiments of Mr. Steve Williams that this not be dropped. The way the motion is stated right now, he could not support it.

Mr. Anderson also shares many of Ms. Vojkovich’s concerns. He is uncertain about how this IFQ program will impact the fleet over time. We are at least three or four years away from implementation even if we stay on schedule. However, the program must be viewed in comparison to other alternatives. For Washington, there are only five trawl boats left. While the program is not completely ready, the principal components are there. Mr. Larkin talked about discarding marketable fish at an unacceptable rate. The exempted fishing permit (EFP) proved that if the fishermen were held accountable for bycatch they could catch more marketable healthy species. In 2006, the trawl fishery left 1,000 tons of sablefish on the table, worth close to \$3 million. The cost of the observer program was \$3.7 million, including the dockside monitors. There are large quantities of seabastes available, such as yellowtail rockfish. Mr. Dulcich indicated that while it might take some work to expand the market for Dover sole, the ability to market seabastes is there right now. He would like to give our fleet a chance to be successful. He has a lot of concerns about our small processors and how they will be affected by this; while there are not many, they are important. While Washington does not have many boats in the trawl fishery right now, the people that are in it are as important as if there were more of them. So, he will be voting against the motion and will continue to work to try to make the program successful and address the concerns that have been raised.

Mr. Cedergreen also shares Ms. Vojkovich's concerns. Much more work needs to be done and he was disappointed that some members of the industry had not gotten together during the time we have been involved in this. But we can't afford to lose all of the work that has been done so far. So he cannot support the motion as written and therefore he would vote against it.

Mr. Ortmann empathized with Ms. Vojkovich's comments, but he also agreed with the comments of other Council members that we need to follow-up on the investment that we have made so far and manage the trawl fishery in an improved manner. He does not support the motion.

Dr. Dave Hanson noted that Ms. Vojkovich raised some valid points. While this is specified as final action, in reality it is not. There will be a number of elements which will need to come back in front of the Council. We have the funding to work on it now and we may not have it available for a long period of time. In a subsequent meeting there will be an opportunity to not move forward if we are not happy with the program. It would be too early to do that now.

Ms. Fosmark supported the motion. She does not believe we are over-capitalized based on the number of vessels active in California and the small number of processors. She does not see it as forming a safety factor. There are other means to create a longer season to allow people to choose when to go fishing. She does not expect increased profits, especially if they consolidate. She does not see provisions for future generations that will allow other fishermen to get into the fishery under this program. Even as we have heard about processors and harvesters being impacted, we have not heard about crewmen being impacted. Most people get into fisheries by being a crewman, that's how they learn. They will be priced out of the program. Regional associations can be formed even without an IFQ program. She is not sure it is ready to go forward. She understands the amount of money and time that have been put into this, however, she does not want this to move to a system where the fishermen themselves are priced out of the market and have to work like the plantation system. There is not enough protection for the fishermen in the program. She requested a referendum some time ago, to give people a chance to do a little more work on the program. She also said that California, in general, has a lot of work to do to improve the trawl fisheries. We have gone through the marine protected area (MPA) process and are looking at possible marine sanctuary protected areas, the essential fish habitat (EFH) and RCAs. She is concerned that we will not be able to attract anyone down there to help the processors out and that we don't put additional costs on the fishermen that are already marginal.

Mr. Wolford noted a number of excellent points made by Ms. Vojkovich. His assessment was that the outcome could be worse than status quo. However, he was concerned about killing the program. There are some features that are valuable, such as community based fishing associations, 100 percent monitoring, and the attendant conservation benefits. He was uncertain about which way to go.

Mr. Lockhart noted that with respect to IFQs for the shoreside boats, one of the greatest benefits is that it aligns economic and conservation incentives for the fishermen. He stated his belief that fisherman and processors will work together to figure out a way to use the additional fish that may be landed, though it may take some time. He believed that the basic components of the package provide the tools to address concerns raised by Ms. Vojkovich. We will never have all of the information and we need to move forward with the information before us. The time to move forward is now. Given the concerns about the program, it was his hope that the Council would continue to watch and evaluate the program. The guidance in the MSA is clear that the Council must continue to evaluate LAPPs with respect to their achievement of objectives. He will vote against the motion.

Mr. Roth expressed his support for going forward, at least provisionally with the IFQ program. This would be a historic and positive event as compared to the negative outcome from earlier this year when

the Council was forced to shut down the salmon fishery. The basic framework has been crafted to move the process down the road for needed management reform. There is no doubt there are many more details to be worked out, but today's action to approve the LAPP system sets the stage for that to happen. The action captures the management framework that will provide the most benefits to the nation for the public resource, including assigning personal accountability for the fisheries, providing opportunities for bycatch reduction, providing opportunities to maximize catch of targeted species while protecting species of concern, helping to maintain community stability, guarding against local stock depletion and addressing unforeseen circumstances through a robust innovative adaptive management provision. He supports the action and then follow up with the various details that have yet to be developed.

Mr. Gordon Williams heard testimony about the Alaskan IQ program. The circumstances are much different there. There have been unintended and unanticipated consequences, but there are changes being made to those programs through a review process. There is data coming out of Alaska on those programs that will be helpful to the Pacific Council as they move forward. The halibut and sablefish IFQ programs had effects on communities. Some of those were recognized after the fact and programs were developed to accommodate those interests. But it has been difficult, due to the price of the quota, for communities to play catch-up.

Mr. David Sones said he will also vote no on the motion. He shared many of the same concerns of Ms. Vojkovich. Some of them are big concerns. There are 160 boats or permits in the fleet. Because of under harvest we are dividing up something that has not been fully utilized. We will be taking quota and assigning it to permits that have been on the sidelines, which seems unfair to the vessels that have been actually harvesting the fish. However, the amount of unused fish is a reason to move forward. As we go through the process there will be an opportunity to resolve problems in the program. But the current situation we have now with 2-month quotas is flawed too and needs to be addressed in the interim. If it is going to take us two or three years to implement, is there something we can do in the interim; is there something we can do to allow the fishermen to access those unused fish and reduce discards? This would allow them to keep their businesses viable and get the markets in place to utilize some of these under harvested species as we are working out the details and during the implementation process. It's an important program to our fishermen, to the use of public resources, and to develop the markets.

Mr. Warrens said he will be voting no on this motion. A lot of time and effort has gone into this proposal. There will be consolidation of the fleet and winners and losers. It is only fair that the Council sends that message now for however this shakes out in the next two or three years. To take a system that is not economically viable for many, and turn it into a system that works for the people who will come out of this on the other end in a businesslike fashion only makes sense.

Mr. Rod Moore noted that at the June meeting many processors indicated that they were just as well off under status quo. He agreed with Ms. Vojkovich's concerns about the economic cost-benefit data. There are a lot of big assumptions and a lot of big costs flowing down to the fleet. He has yet to see that anybody wants to help the processors even though they are part of the fishery. There has been a lot of good, hard-working people involved in this, a lot of good debate and facts developed – but rarely has he seen the level of personal attack that there has been on this issue. However, he is voting against the motion because of the hard work put in on the program, and there will be opportunities to address the deficiencies, including accumulation limits and looking at innovative ways to get fishermen and processors to work together. If we don't do this, we will wind up in a situation where we have continued problems with our trip limits and it will support those who want to get rid of the trawl fishery completely. There are problems with discard and bycatch that would be resolved by the program.

Mr. Mallet opposed the motion. We have heard a lot about people catching more fish and making more money, and all of the work that has gone into this. However, the conservation of the fish resources is his

main reason for voting against the motion. This would help reduce bycatch and discards and rebuild stocks that are suffering partially because of the discards.

Chairman Hansen noted the length of the process and degree of acrimony. This week the fishermen and processors started to work together. We started five and a half years ago to protect the resource, because of discards and bycatch. This is not a time to stop. There has been much progress since June. The funding is there now to keep going. There is an opportunity to protect the resource and bring more fish in so both harvesters and processors can make more money.

Motion 22 failed. 11 no, 2 yes. Ms. Vojkovich and Ms. Fosmark voted yes.

Mr. Anderson moved and Mr. Rod Moore seconded Motion #4 of the WDFW motion package 1 (Motion 23), to adopt as the Council’s preferred alternative for the shoreside sector:

<b>Motion 23 – See “Motion 23 as amended” for final version</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
<b><i>IFQ Program</i></b>		
General Provisions	A-1	Applies to shoreside whiting and non-whiting fisheries
Scope: Gears and Fisheries Covered	A-1.1	Modified Option 2 - If a vessel has an LE trawl permit and groundfish is caught by any gear, IFQ must be used, with the following exceptions: exempted trawl, California halibut trawl, coastal pelagic species gear, highly migratory species gear, salmon troll, and crab pot.
Gear Switching and Conversion	A-1.1 & 1.7	Gear switching allowed. <u>Do not include any provisions for permanent gear conversion.</u>
IFQ Management Units: Species	A-1.2	<u>For non-whiting sector, IFQ is required for all species, except: longspine S. of 34.27'; minor nearshore rockfish (N &amp; S); black rockfish (WOC); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY. If a trawl allocation for any of these species is adopted in the future, then QS/QP for those species could be added at that time. For whiting fisheries, IFQ required for whiting and species with bycatch caps. Bycatch caps would be established for the following species; widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species would be accounted for and tracked against the overall OY.</u>
Area Management	A-1.2	<u>For species managed under coastwide OY with precautionary harvest policy (I.e., 40:10 or some other policy) applying to a specific area, subdivide the OY and apply the precautionary policy as recommended by the Council's SSC.</u>
Number of Trawl Sectors	A-1.3	Three trawl sectors
Limited Entry Permit Length Endorsement	A-1.6	<u>Retain the length endorsement for permits, with a modification: If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel).</u>
Initial Allocation - Whiting	A-2.1	<u>80% to harvesters;20% to processors (no adaptive management)</u>
Initial Allocation - Non-whiting	A-2.1	<u>90% harvesters; 10% to adaptive management</u>

<b>Motion 23 – See “Motion 23 as amended” for final version</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
Attributing and Accruing Processor History	A-2.1.1	Option 3 (whiting) - Attribute history to the receiver reported on the fish ticket, except history may be reassigned to an entity not on the landings receipt, if parties agree or through an agency appeals process

Mr. Anderson spoke to the motion. On gear switching he thought it was premature to make a decision on gear conversion and would like to first see how temporary switching works and the impacts of bycatch on other sectors. The species for IFQ management were narrowed for the whiting sector. In the whiting fishery there are species that are rarely caught or caught in de minimis amounts and he did not see a need to require IFQ for those species. For the length endorsement, the analysis does talk about how the fleet might consolidate and the optimum size of vessel. We wanted to allow people with permits for larger vessels to move to smaller vessels if that was the most efficient and effective thing to do, yet not have a permanent reduction on the length of the permit for the vessel.

With respect to the issue of processor shares, the motion does not include an allocation of QS to processors for the nonwhiting side. For the whiting sector, an allocation is appropriate based on a few factors identified in the analysis. First, there are three large volume shoreside whiting processors; fleet consolidation will take place among shoreside whiting vessels but not to the extent of the non-whiting portion of the shoreside fleet. The analysis predicts that the shoreside whiting fleet would drop to approximately 20 vessels (see 4.6.2.2, page 312). Even with a 20 percent allocation to processors, it is uncertain whether the initial allocation to processors will offset the gains in negotiating power to harvesters relative to status quo (Chapter 4, page 435). For shoreside whiting, the need for processing capital may decline by 30-50 percent (see 4.9.2.4, page 415, and Figure 4-2.2, which shows the projected changes in the seasonality under this type of an approach). Initial allocation of QS to processors functions as a means of guaranteeing supply, and to provide an incentive to make necessary capital investments to increase product recovery yield (public testimony and Section 4.9.2.6 page 416 which addresses product recovery).

Mr. Anderson also noted his concerns about processors in the nonwhiting fishery and that he was pinning a lot on the 10 percent set aside for adaptive management. If he was going to make an allocation of QS to processors, he would likely consider something along the lines of a 10 percent allocation. In the non-whiting fishery we know there is a high degree of market concentration in the processing sector. Small processors face some risk under the IFQ program because of vessel consolidation. Yet there is reason to believe that issuing QS to processors would increase market concentration in an already concentrated sector. In contrast to whiting, the nonwhiting trawl fishery is not a derby style system. The Council has attempted to achieve optimum yields, albeit with limited success, minimize bycatch, and rebuild overfished stocks with the bimonthly trip limit system (see Section 4.4.2). The buyback program left 163 permits in the fishery. In 2006 there were 123 active permits earning approximately \$25 million in exvessel revenue (see Section 4.4.2, page 289). There has been significant consolidation in the processing sector resulting in high market concentration. The number of nonwhiting processing firms has dropped in half since 1994. The processing sector for nonwhiting groundfish is characterized by a relatively small number of processing companies processing the majority of the harvest. The consolidation has already occurred as part of the current management approach. Because of concern about the potential for further consolidation if QS are issued to processors, Mr. Anderson favored a 10 percent set aside for adaptive management that could be used to not only provide certainty and security to the larger processors, but also provide flexibility to tailor a program that would provide some protection to smaller processors. A set of protocols will need to be established to ensure that the program accomplishes this as one of its objectives.

Dr. Dave Hanson, on the scope of fisheries covered, noted the GAC recommended that California halibut trawl be included in the program, as they are using the same nets in Federal groundfish fisheries. That would also get observers in that fleet.

Ms. Vojkovich moved and Ms. Fosmark seconded an amendment (Amendment #1 to Motion 23) to amend the scope in Section A-1.1. to strike "California halibut trawl" in the list of exemptions. Ms. Vojkovich clarified that there are limited entry trawl vessels participating in the California halibut fishery in the central coast with the same gear. In southern California there is a state fishing area that requires a different set of gear, 7.5" mesh, so she did not know if we have any limited entry (LE) fishermen that participate in that fishery. Her motion deals with the gear type that is exactly the same as the groundfish gear type. Amendment #1 to Motion 23 passed unanimously.

Mr. Moore supported the motion. He had some disagreement with Mr. Anderson concerning his characterization of consolidation in the groundfish processing sector. He had seen some of the same data in the analysis and had been confused about some of it based on his own knowledge. His preference would be to allocate harvesting shares of non-whiting groundfish species to the processors. There has been testimony on that issue; and while we have been successful at getting together harvesters and processors in the whiting sector, we are still not there yet in the non-whiting sectors. The approach being taken, while not his preferred approach, is a reasonable way to get people working together and resolving some of the issues identified. He will address this issue further with a motion on adaptive management.

Mr. Mallet stated that adaptive management seems to be something that the fishermen and processors were against. He did hear everybody agree, environmental community fishermen and processors, that we don't want to damage communities, and in particular, the small and medium size processors that were affected by our buyback program. This is a way to have the staff develop a program so we can help out the communities and those small and medium processors in particular which were affected by buyback and may be affected unintentionally by this program. The normal Federal program is to give each of the three states a third and let them give it to regional associations. Mr. Mallet felt that staff should focus on the small and medium processors that are struggling and the communities that are struggling because of our actions, and determine a plan on how to use this 10 percent to try to aid those communities and entities rather than just broad-brushing it off and giving everyone a small amount. This is an important part of this program. We don't want to have unintended results where we further damage those that have been damaged by the buyback program. We want to try to maintain our processors in a diverse geographic area so we have places for the fishermen to deliver their fish. If we take the adaptive management provision out and we have no way of aiding places like Bellingham and Fort Bragg, it will be difficult to support the motion.

Ms. Vojkovich asked Mr. Anderson about the initial allocation to non-whiting, where it says 90 percent to harvesters and 10 percent to adaptive management. Up until now we've been talking about quota pounds (QP) being put in the adaptive management program, not QS. This appears to be QS. Up until now it has been listed as 100 percent to harvesters with 10 percent QP to the adaptive management program.

Mr. Wolford moved and Ms. Vojkovich seconded an amendment (Amendment #2 to Motion 23) to change the initial allocation for whiting and non-whiting to read "100 percent QS to harvesters and 10 percent QP to adaptive management" in both the whiting allocation and the nonwhiting allocation. This is more than a clarification, it is a change.

Mr. Wolford said there is no philosophical objection to processors having shares. There is not a way to prosecute the fisheries without both harvesters and processors, working together. Each is required, both must be healthy. There has been a lot of talk about community stability. There is nothing that protects

shares from beings sold or leased by either harvesters or processors. It is not clear that giving shares to one group or the other specifically protects the community. Both of those factions are clear they are loyal to their communities and have no intention of leaving. He saw no risk to the community on the issue of harvester shares themselves. The issue of unbalanced power between processors and harvesters is not really the issue. We are only talking about the initial allocation. The processors will be able to acquire shares and achieve the balance of power that is necessary. They will do that whether there is an initial allocation or not. The real issue is one of the control caps to ensure that the balance of control does not get out of hand. That is where the real focus ought to be.

Continuing, Mr. Wolford said there are some practical differences that relate to processors getting an initial allocation. An initial allocation comes as a tax on all the participants. Whether they want to cede some amount of the shares or not, it is a tax on everyone. Whereas if there are individuals who want to transfer some of their QS to processors, that is a business decision that they would make on an individual basis. With respect to fairness, the question is one of whether we balance the investment and commitment to the fishery made by processors against the risk that they take. When it comes down to looking at risk, the scale tips to the side of the harvesters, who risk their very lives for the business. There is a question as to how to effectively change behavior on the water using QS. It is the harvesters that are on the water. That is clearly in the hands of harvesters. No matter who has custody, the only way to realize benefit from the shares is to put it back on the boat and let it be fished. No matter what, if the processor has shares or not it will go back to the boat and will be fished. The fishermen will ultimately get their chance, but that gets to the heart of the issue. If they are going back to the boats, why remove them in the first place? Why have the administrative complication of a difficult allocation process, taking that away from the boats only to turn around and give it back. That is an unnecessary complication. Therefore, we ought to leave the allocation 100 percent on the vessels.

With respect to adaptive management, it is important across all segments. To not have any adaptive management in the whiting sector is an injustice. In aerospace, he never saw a program where they got every wrinkle ironed out before it was implemented. A management reserve needs to be held back. Adaptive management is needed in all segments for practical reasons of providing opportunities to look at new gear, to put money into processors, or to put QP into communities to achieve stability there. Adaptive management is important in all of those things. It is important to take the QP up front. This distributes the burden to everyone, but then everyone can plan for it. If you don't plan for it and the problem arises, you are going to need to take it away to address a problem that you did not foresee. It is easier to plan for these things if it is taken up front. He was certain that it would be needed. It is clear that time needs to be spent defining in greater detail how it will be dispersed and for what purposes. However, this is something we set aside to fix problems we can't forecast or control at the onset. There needs to be some flexibility in how we use it, but that can be addressed in a follow-up action that helps define and clarify how we use it.

Mr. Dale Myer said during public testimony we heard from just about the entire shoreside whiting industry in favor of an 80 percent/20 percent harvester processor split. These people had been at odds for a long time and it would be an injustice not to move ahead based on their agreement. He also noted Mr. Anderson's earlier explanation of the differences between whiting and non-whiting sectors with respect to the processing issues. He was not in favor of Amendment #2.

Mr. Cedergreen also opposed the amendment. He noted that most of the Council would have hoped that the nonwhiting sector had been able to work out an agreement like the whiting shoreside and mothership folks had. If that had happened, the Council would have been supportive of it. Making this kind of a change to the whiting sector agreement is essentially saying that even if the nonwhiting folks were to get together with an agreement, the Council might not support it.

Ms. Vojkovich supported the amendment. Ms. Vojkovich noted the state of California's policy in opposition to the granting of the right to harvest fish to processors. They agree that processors serve as an integral part in the development and maintenance of fisheries, but there does not appear to be any logic for using the performance of fishermen to award rights or benefits to processors. They are two wholly separate industries and functions. Awarding processors shares based on a harvester's prior performance is not rationally related to the performance of the processor. If the state wants to reward processors, it should be on their own merits. The most recent MSA allows us to consider allocating shares to processors. The Council's task is to determine whether the processors meet the standard of whether they substantially participate in the fishery. The first definition of fishery in the MSA is "one or more stocks of fish," the second definition is "any fishing for such stocks." During the past several years we've had discussions about processing at-sea and onshore. NMFS has said the reason we can permit or limit the MS in the whiting fleet is because, by definition, they are considered a fishing entity, but we can't do the same for shoreside processors because they are not considered a fishing entity. This guidance indicates to her that shoreside processors are not part of the fishery, so cannot be allocated harvester shares. The MSA does provide for processors through communities or regional fishery associations. Additionally, several skippers and crew members spoke about the fishery and how they might be affected. If we are not considering giving shares to skippers and crew members, why would we think about giving shares to a trucking firm, a fabricator, a processor, or the storage company? This is a back-door entry into processing privileges. Processors indicated that they would give it free to the vessels delivering it to them. However, there is no free lunch in any industry. There is a cost associated with it. The cost is the requirement that the vessel deliver to the processor. This is like the linkage that we will not allow in the mothership fishery, or like processing shares. Adaptive management and RFAs will take care of the stranded capital and community issues that might develop. Processors are vital to the fishing communities but this does not make sense, it is not rationale, and it may set a precedent. There is no place where this has happened in a conscious decision by a public policy group. It has been done by Congress as a directive but there has not been a decision by a body like the Council in a public process to do this.

Mr. Warrens said he is in opposition to the amendment. The reason was clearly spelled out when the shoreside whiting group stood up together in total agreement. This is consistent with recommendations coming from the harvesting group of the advisory panel throughout the whole Council process. When there is agreement among the majority of the parties to do something, for us to not follow through does not make sense, in this case. The rationale was explained fairly well by Mr. Joe Plesha when he said they needed commitment of delivery to their plants in order to improve their efficiency and their recovery rates. That would have a mutual benefit to the processors as well as the harvesters.

Mr. Anderson spoke against the amendment. He acknowledged the precedential nature of the decision. The Council has managed this fishery through its development for 18 or more years, to the current Olympic fishery. As a result, we have a processing industry that has 30-50 percent more harvest capacity and capital investment than is needed to process the resource. Also, through our management, we have forced processors and fishermen to be inefficient. We are exporting raw product out of the country to where the final processing is done. That does not make sense. We have to give this fishery the tools to be efficient and successful and allow the processors the ability to make the needed investments, similar to what they have done in the pollock fishery, to extract the maximum value out of the resource and within our borders. This is about money, in large part, and who will control the profit. There needs to be a balance in that. What we do here can result in a balance of that power over the extraction of rent, the ability of the fishermen to have quality platforms from which to operate their businesses, and processors having an opportunity to have a quality processing plant that delivers a high quality of product to the consumer within our borders.

Mr. Lockhart mentioned that he will be abstaining because it is more largely about allocation.

Amendment #2 to Motion 23 failed. Ms. Vojkovich, Ms. Fosmark, and Mr. Wolford voted yes. Mr. Lockhart abstained.

Mr. Cedergreen moved and Mr. Anderson seconded an amendment (Amendment #3 to Motion 23) to add “limited entry fixed gear” under Section A-1.1 to the list of exceptions; under IFQ management [Section A-1.2] strike the phrase “species with bycatch caps. Bycatch caps would be established for” and add “sablefish” to that list.

Mr. Moore noted that limited entry fixed gear had been added as a gear for which you did not have to have IQs for, but that gear conversion allows the use of IFQs with fixed gear. It was agreed that the motion should be understood to include the language that is already in A-1.1 that allows vessels with limited entry trawl endorsements and fixed gear endorsements to fish against their fixed gear endorsement without needing trawl IFQs by going through a declaration procedure. Mr. Anderson noted that the reason for removing the bycatch cap language is that we have three sectors, not four. The vessels would have to have IQs for those other species but there would not be sector bycatch caps. Amendment #3 to Motion 23 passed unanimously.

Ms. Vojkovich asked whether NMFS will issue processors Federal permits and recover costs from them. Mr. Lockhart said that the 3 percent landing fee would be collected.

Ms. Vojkovich moved and Mr. Wolford seconded an amendment (Amendment #4 to Motion 23), under the section “Gear Switching and Conversion” have it read “Gear switching is allowed, include provisions for permanent gear conversion.” She stated that this should be a tool in the box and that we would not lose anything by including it with no special provisions for how it might happen or when.

Mr. Lockhart asked if under the original motion, someone would not be able to switch permanently to another gear. Mr. Anderson noted the amount of uncertainty in the program and stated that we should go slow and allow gear switching to occur, but at the same time not require the gear change to be permanent. When the program is reviewed, the effect of gear switching could be evaluated and a determination made on the need for gear conversion. Ms. Vojkovich withdrew her Amendment #4.

Mr. Wolford asked if the intent of the motion was that 100 percent of the QS go to harvesters and 10 percent QP to adaptive management. Mr. Anderson explained that under the adaptive management program we might have a multi-year business plan brought forward. In such case, some portion of the QS that were assigned to a particular region could be given to that group. So he specified QS for the adaptive management program rather than every year having to calculate QP and then converting those.

Ms. Vojkovich said that we had not discussed the QS approach before. The whole adaptive management plan was to go away at some point in time. Giving QP for five years to a business plan allows them to make the money to buy the share, then engage in that kind of fishery. It is “up to 10 percent,” with the remainder to go back to the fleet. Now it has changed completely with QS going to the adaptive management program instead of QP.

Mr. Anderson said that this lack of synchronization of vision is why a trailing action is going to be needed to put together the adaptive management component of our program. If that trailing action results in the need to specify QP instead of QS, that modification to the language could be made at that time. Mr. Anderson clarified that regardless of the language being used at this time, the intent would be that if the QP arising from the QS set aside for adaptive management were not needed for the adaptive management program, those QP would be issued to the other QS holders.

Main Motion 23 passed as amended. Mr. Lockhart abstained.

The following is the motion as amended.

<b>Motion 23 – As Amended</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
<b><i>IFQ Program</i></b>		
General Provisions	A-1	Applies to shoreside whiting and non-whiting fisheries
Scope: Gears and Fisheries Covered	A-1.1	Modified Option 2 - If a vessel has an LE trawl permit and groundfish is caught by any gear, IFQ must be used, with the following exceptions: exempted trawl, <del>California halibut trawl</del> , coastal pelagic species gear, highly migratory species gear, salmon troll, crab pot, <b>and LE fixed gear</b> (when it is declared they are fishing against their endorsement).
Gear Switching and Conversion	A-1.1 & 1.7	Gear switching allowed. Do not include provisions for permanent gear conversion.
IFQ Management Units: Species	A-1.2	<u>For non-whiting sector</u> , IFQ is required for all species, except: longspine S. of 34.27'; minor nearshore rockfish (N & S); black rockfish (WOC); CA scorpionfish; cabezon; kelp greenling; shortbelly rockfish; other rockfish; spiny dogfish. The catches of these species would be accounted for and tracked against the overall OY. If a trawl allocation for any of these species is adopted in the future, then QS/QP for those species could be added at that time. <u>For whiting fisheries, IFQ required for whiting and <del>species with bycatch caps. Bycatch caps would be established for the following species; sablefish</del>, widow, canary, and darkblotched rockfish, and Pacific ocean perch. The catches of all groundfish species would be accounted for and tracked against the overall OY.</u>
Area Management	A-1.2	<u>For species managed under coastwide OY with precautionary harvest policy (I.e., 40:10 or some other policy) applying to a specific area, subdivide the OY and apply the precautionary policy as recommended by the Council's SSC.</u>
Number of Trawl Sectors	A-1.3	Three trawl sectors
Limited Entry Permit Length Endorsement	A-1.6	<u>Retain the length endorsement for permits, with a modification: If a permit is transferred to a smaller vessel, then the permit would retain the larger length endorsement (e.g., if a permit endorsed for a 75 ft vessel is transferred on to a 50 ft vessel, the permit would retain the endorsement for a 75 ft vessel).</u>
Initial Allocation - Whiting	A-2.1	<u>80% to harvesters; 20% to processors (no adaptive management)</u>
Initial Allocation - Non-whiting	A-2.1	<u>90% harvesters; 10% to adaptive management</u>
Attributing and Accruing Processor History	A-2.1.1	Option 3 (whiting) - Attribute history to the receiver reported on the fish ticket, except history may be reassigned to an entity not on the landings receipt, if parties agree or through an agency appeals process

Mr. Anderson moved and Mr. Cedergeen seconded Motion #5 of the WDFW motion package 1 (Motion 24), to adopt as the Council's preferred alternative for the shoreside sector:

<b>Motion 24 – See “Motion 24 as amended” for final version</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
Recent Participation Requirements (Permits)	A-2.1.2	Recent participation not required
Recent Participation Requirements (Processors - SS)	A-2.1.2	Option 2 (whiting) - 1 mt or more of deliveries from whiting trips in each of any two years from <u>1998-04</u>
Allocation Formula for Catcher Vessel Permits	A-2.1.3	Option 2 – An equal division of the buyback permits’ pool of QS for all groundfish, except overfished species, among all qualifying permits plus allocation of the remaining QS based on each permit’s history
		Non-whiting non-overfished species: Use permit catch history (1994-03, drop 3 worst years)
		Non-whiting overfished species: Modified option 2 - use <u>finer scale</u> bycatch rates
		Shoreside Whiting: Use 1994-03, drop 2 worst years
		Shoreside Whiting overfished species: Option 2 - pro-rata based on whiting allocation
Allocation Formula for Processors	A-2.1.3	Shoreside Whiting: No bycatch allocation; whiting allocation only.
Permit Holding Requirement	A-2.2.1	If a vessel has an overage: Element 4 - Allow exceptions for vessel to participate in the fisheries for which IFQ would not be required to cover groundfish catch: exempted trawl; CPS purse seine; HMS fisheries; salmon troll; and crab pot. Element 6 - Alternative compliance options would <u>not</u> apply.
Carryover	A-2.2.2	Will not apply to QP that are not transferred to a vessel's account
Eligibility to Own or Hold	A-2.2.3a	Include as specified (p. A-212)
Temporary Transfer Rules	A-2.2.3c	Suboption 2 - QS will not be transferred in the first two years of the program (QP will be transferable)
Accumulation Limits	A-2.2.3e	It is the intent of the Council to have accumulation limits. However, the details of the accumulation limits would be further developed and analyzed through a trailing action. Items to be addressed through the trailing action would include: 1) identification of the species that would be subject to accumulation limits; 2) description of how to treat overfished species; 3) determination of whether to apply accumulation limits at the vessel (usage) or entity (ownership/control) level or both; and 4) how accumulation limits would be tracked. The intent would be to have the trailing action process completed in time for the accumulation limits to begin upon implementation of the trawl rationalization program.
Grandfather Clause	A-2.2.3	No grandfather clause

There was a discussion of the method that would be used to allocate overfished species. Mr. Anderson indicated that his intent was to take the allocation that would otherwise be associated with the buyback permits and pro-rate them to the individual permits based on the finer scale bycatch rate approach, that seems like a more logical approach to align the overfished species with the QS for the target species each permit would have. This was a change for the approach specified in June. Mr. Anderson confirmed Dr. McIsaac’s interpretation that the column in Supplemental WDFW Motion Package 1 labeled “change from June” is for informational purposes only and not part of the motion.

With respect to the permit holding requirement, Ms. Cooney noted that they would be fleshing that out in regard to how the enforcement and compliance parts interact, based on the enforcement consultant report. That does not need to be dealt with now, but she wanted to note that the previous discussion was relevant and would have to be dealt with. Also the citation to statutes in the section on eligibility to hold or own (A-2.2.3.a) has been recodified and will need to be updated.

Mr. Moore moved and Mr. Anderson seconded an amendment (Amendment #1 to Motion 24) to adopt the following:

Allocation formula for processors is amended to include:  
*“Allocate whiting quota share based on the entity’s history for the allocation period of 1998 – 2004 (drop two worst years) and use relative history.”*  
This amends section A-2.1.3(d) of the IQ alternatives regarding whiting

Mr. Moore explained that when the whiting co-ops were discussed there was an option put together for the processing history and this is what it read. At the June meeting, the co-op option was dropped, and as a result the processing history portion of the allocation formula had reverted to the vessel history portion of the allocation formula. This goes back to the original language that had been in there for the whiting processor sector. These years were chosen to better reflect the historic and current participation in the processing sector. They recognize that there were some low years that occurred during that time and there was movement in and out of the whiting processing sector during that period.

Ms. Vojkovich reiterated her opposition to processor allocations and opposed this extension of the qualifying period beyond the control date. If we want to explain why we think it’s a good idea then maybe we should extend the control date for all of the other participants because some people are disadvantaged by going only to 2003. We have had 2003 all along and now we are changing it for one minor section of this program. She did not think it is fair and equitable.

Mr. Lockhart noted that going past the control date is an important consideration and asked why this was crucial. Mr. Moore said that this came up in testimony. This is language that has been in there all along. Because the co-op opportunity was declared illegal, we dropped the shoreside co-op option in June. In doing so the processing history year range had been dropped back from 1994-2003. These dates were chosen to be included in the shoreside co-op alternative to reflect the difference in the whiting fishery for a couple of poor years and movement in and out of the fishery during the latter part of this period. There is a major issue of stranded capital. This will still not recognize the history of various processors that operated either before or after.

Amendment #1 to Motion 24 passed. Ms. Vojkovich voted no and Mr. Lockhart abstained.

Mr. Wolford moved and Ms. Vojkovich seconded an amendment (Amendment #2 to Motion 24) to amend the paragraph for Section A.2.2.3.e (Accumulation Limits) by striking the “and” in front of “4” and then insert “and 5), how accumulation limits would apply to and affect community-based or regional fishery associations.” Mr. Wolford noted that this concept of regionally-based fishing associations is very important as we move forward and there is a lot of uncertainty about how they would be affected by accumulation caps. It deserves explicit mention in this paragraph. Amendment #2 to Motion 24 passed unanimously.

Motion 24 passed as amended. Mr. Lockhart abstained from the main motion. The following is the motion as amended.

Motion 24 as amended		
Topic	Section	Council Preferred Alternative
Recent Participation Requirements (Permits)	A-2.1.2	Recent participation not required
Recent Participation Requirements (Processors - SS)	A-2.1.2	Option 2 (whiting) - 1 mt or more of deliveries from whiting trips in each of any two years from <u>1998-04</u>
Allocation Formula for Catcher Vessel Permits	A-2.1.3	Option 2 – An equal division of the buyback permits’ pool of QS for all groundfish, except overfished species, among all qualifying permits plus allocation of the remaining QS based on each permit’s history
		Non-whiting non-overfished species: Use permit catch history (1994-03, drop 3 worst years)
		Non-whiting overfished species: Modified option 2 - use <u>finer scale</u> bycatch rates
		Shoreside Whiting: Use 1994-03, drop 2 worst years
		Shoreside Whiting overfished species: Option 2 - pro-rata based on whiting allocation
Allocation Formula for Processors	A-2.1.3	Shoreside Whiting: No bycatch allocation; whiting allocation only. <u>Allocate whiting quota share based on the entity’s history for the allocation period of 1998-2004 (drop two worst years) and use relative history.</u>
Permit Holding Requirement	A-2.2.1	If a vessel has an overage: Element 4 - Allow exceptions for vessel to participate in the fisheries for which IFQ would not be required to cover groundfish catch: exempted trawl; CPS purse seine; HMS fisheries; salmon troll; and crab pot. Element 6 - Alternative compliance options would <u>not</u> apply.
Carryover	A-2.2.2	Will not apply to QP that are not transferred to a vessel's account
Eligibility to Own or Hold	A-2.2.3a	Include as specified (p. A-212)
Temporary Transfer Rules	A-2.2.3c	Suboption 2 - QS will not be transferred in the first two years of the program (QP will be transferable)
Accumulation Limits	A-2.2.3e	It is the intent of the Council to have accumulation limits. However, the details of the accumulation limits would be further developed and analyzed through a trailing action. Items to be addressed through the trailing action would include: 1) identification of the species that would be subject to accumulation limits; 2) description of how to treat overfished species; 3) determination of whether to apply accumulation limits at the vessel (usage) or entity (ownership/control) level or both; <del>and</del> 4) how accumulation limits would be tracked <u>and 5) how accumulation limits would apply to and affect community-based or regional fishery associations.</u> The intent would be to have the trailing action process completed in time for the accumulation limits to begin upon implementation of the trawl rationalization program.
Grandfather Clause	A-2.2.3	No grandfather clause

Mr. Anderson moved and Mr. Cedergeen seconded Motion #6 of the WDFW motion package 1 (Motion 25), to adopt as the Council’s preferred alternative for the shoreside sector:

<b>Motion 25 – See “Motion 25 as amended” for final version</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
Tracking and Monitoring	A-2.3.1	Program: Alt 1 - discards allowed; discards of IBQ required
		At-sea Catch Monitoring - Non-whiting: Alt 2 - At-sea observers required
		Shoreside Whiting: Observers would be required in addition to or as a replacement for video monitoring
		At-sea Whiting: Observers would be required in addition to or as a replacement for video monitoring
		MS and CP: Remove reference to "supplemental video monitoring on processors may also be used"
		Shoreside Catch Monitoring - Include as specified
		Catch Tracking Mechanisms - Include as specified
		<u>Landing Hour Restrictions: Landing hours not restricted</u>
		Vessel Certification - Include as specified
		Program Performance Measures - Include as specified
Data Collection	A-2.3.2	Include as specified
Program Costs	A-2.3.3	Cost Recovery: Option 1 - Fees up to 3% consistent with 303A(e) Magnuson Stevens Act, page 86, costs recovery shall be for costs of management, data collection, analysis and enforcement activities.
Program Duration and Modification	A-2.3.4	Include as specified: 4-year review process
Pacific Halibut IBQ	A-4	Establish limit for legal-sized Pacific halibut bycatch mortality through the use of an IBQ in the trawl fishery up to 10% of the Area 2A Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission. This amount will be set initially at 10% and may be adjusted through the biennial specifications process.
Other Provisions		Require that all QP be deposited into a vessel account each year
		Require that all retained IFQ non-whiting groundfish in the non-whiting groundfish fishery be landed shoreside (i.e., no at-sea landings allowed for non-whiting groundfish). Ensuring that non-whiting groundfish continues to be delivered shoreside helps protect shoreside processors and communities that have historically relied on groundfish deliveries.
		Initiate a trailing action process to require eligibility criteria to own or hold QS (e.g., ownership interest in a vessel or permit) to help ensure that QS holders have direct ties or investments in the fishery. Requirements should not be so onerous so as to preclude or discourage crew members, for example, from acquiring QS and entering the fishery.

Mr. Myer stated he would recuse himself from the motion discussion and vote.

Mr. Anderson said the intent of the last provision is to not have this program result in QS holders who are absentee, not involved or engaged in the fishery in some way.

Mr. Moore asked Mr. Anderson about the landing requirement for non-whiting groundfish shoreside with respect to the MS and CP fisheries. Mr. Anderson said this is for the non-whiting groundfish fishery. It is not intended to preclude nonwhiting groundfish taken in the whiting fishery from being taken care of at-sea.

Ms. Fosmark moved and Ms. Vojkovich seconded an amendment (Amendment #1 to Motion 25) to adopt for the non-whiting trawl rationalization alternative for consideration as a trailing action a permit-owner-

on-board requirement and grandfathering provision similar to that specified in Amendment 14 to the Pacific Coast Groundfish fishery management plan (FMP) language.

Ms. Fosmark said her concern was to keep the fishery in the fishermen's hands. There are owner-on-board provisions in the halibut IFQ program in Alaska as well as programs managed by the State of California and the NMFS through this Council. This would offer an opportunity for younger people to get into the fishery, it is also addressed in Appendix A (page A-48 under the consideration of communities). She feels we should not restrict the fishery or make it more difficult for people to sell their permits. It would not restrict the QS but would offer an opportunity for fishermen to get into the fishery that would not ordinarily be able to do so. This would not be for the initial allocation but would be for the second generation. There needs to be some provision of 150 days or something similar to what the limited entry fixed gear sector has to at least show an effort that they have been in the fishery before they purchase the fishery.

Mr. Lockhart noted that the TIQC considered and rejected this several times. It seems like this would be changing the way the fishery operates now. Ms. Fosmark said she would not disrupt the existing fishery. Her concern is the future of the fishery and if permits are bought and sold by people who are not invested in the fishery other than just owning a permit it would create a movement that the fishermen themselves would not have as much control over. This would apply just to the second generation.

Ms. Vojkovich read this as a possible way to do what is already in the current motion. It does not preclude the group from thinking of using something like this. Mr. Anderson concurred. Dr. McIsaac stated that the Council is attempting to take final action to the extent that it can. The amendment is on whether or not to have an owner-on-board and grandfather provision and the follow-on action would be to develop some specifics. The motion as it now stands is to come back with a variety of options, this might be one of them. This is a motion to get more specific now on that general provision.

Ms. Fosmark withdrew her Amendment #1 to Motion 25.

Ms. Vojkovich moved to amend (Amendment #2 to Motion 25) the landing hour restrictions, revert to the June Alternative 2 where landing hours are limited. Mr. Lockhart seconded the amendment. Ms. Vojkovich said this was identified in the EC report as something that would help with enforcement. It may control costs. She thinks it needs to be in there and if it doesn't work we can change it after we have tested it. Mr. Anderson said the fishery is a 24-hour fishery. We are planning on having monitors at the off-load sites. If the restriction is on the order of no more than 12 hours a day it will be very onerous on the industry. Our offload monitors are going to be able to contact state or Federal law enforcement if there is an issue. So not knowing what restrictive landing hours means, he would rather leave this as is; but if we need to restrict hours, we can consider at that time.

Mr. Myer felt that with observers and monitors, the landing hour restriction to ensure that enforcement can be there at the same time was excessive. Mr. Moore opposed the amendment. While there are costs there is also a safety issue, this is a 24 hour fishery. If someone has an operational problem or ill crew member and cannot offload because it is not the proper hour, what is he going to choose?

Ms. Vojkovich noted that while some fisheries are 24 hours, this will cost the smaller fishermen. This program is supposed to end the race for fish.

Mr. Anderson asked if her concern would be addressed by saying that landing hours "may" be restricted and noted that this could be done on a port by port basis, depending on circumstances. In response to a question, Mr. Seger indicated that the specific hours would be developed as part of the implementation

phase. Mr. Lockhart stated that as long as the original motion does not preclude that type of decision-making process he would be okay with the original motion.

Mr. Anderson moved and Dr. Dave Hanson seconded to amend Amendment #2 to specify that the "Landing hours may be restricted"(Amendment #3). Amendment #3 passed unanimously. Amendment #2 to Motion 25, as amended by Amendment #3, passed unanimously.

Mr. Lockhart moved and Ms. Vojkovich seconded an amendment (Amendment #4 to Motion 25) to adopt the following:

The Council shall begin a review of the TIQ program no later than 5 years after implementation of the program. The review will evaluate the progress the TIQ program has made in achieving the goal and objectives of Amendment 20. The result of this evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying selling, and leasing of these shares.

The Council shall consider the use of an auction or other non-history based methods when distributing quota share that may become available after initial allocation, such as quota that results after a stock transitions from overfished to non-overfished, when quota share from an AMP is no longer needed, when "use it or lose it" quota shares are forfeited, and if any quota is available after the initial or subsequent reviews of the program are completed.

The specific form of the auction or other method of distribution shall be designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.

Mr. Lockhart said this promotes the idea that the fisheries resources are the property of the citizens of the United States and not perpetual grants to the QS holders. This also recognizes that we are not developing the perfect system. It puts the QS holders on notice that there may be changes to the program that could involve their QS and affect them. There will be a review in four or five years. At that point in time the Council could consider what is going on in the fishery, including whether there are adverse effects on communities, new entrants are effectively prohibited due to costs of entry, or there are other adverse affects. If the adaptive management program is not adequate, the Council could consider an auction of some of the QS to correct these things or deal with other results of the review. There were concerns that under the auction those with the deepest pockets will get it all. The last paragraph addresses ways to limit the auction so as to not disrupt communities, e.g. limiting the auction to small vessels. The motion is not requiring the Council to have an auction, it is putting it in there as a specific item that the Council would consider after the initial review.

Ms. Vojkovich said she would support the amendment. It aligns very closely to the State of California's views on ITQs and the fact that they are not property rights in perpetuity.

Mr. Myer objected to the auction because the people with the deepest pockets may not be fishermen or processors, but rather it may be a nongovernmental organization (NGO), if that is also considered an adverse effect.

Mr. Moore expressed concern about the burden that future consideration of auctions would place on the Council process in terms of producing documents and additional meeting time when there are other fishery management issues that need to be dealt with.

In response to questions from Mr. Williams and Dr. Hanson, Mr. Lockhart said that after the review, there may be some problems, and that the tools we have may not be adequate to handle those problems. An auction or some other nonhistory based method may be used to try and fix that, it would not be required. The earliest the auction might be implemented would likely be six to eight years after implementation. There would be no additional action or analysis at this time.

Amendment #4 to Motion 25 passed. Mr. Jerry Mallet, Mr. Dave Ortmann, Mr. Frank Warrens and Ms. Kathy Fosmark voted no.

Motion 25 passed as amended. Mr. Myer recused himself.

Motion 25 as amended		
Topic	Section	Council Preferred Alternative
Tracking and Monitoring	A-2.3.1	Program: Alt 1 - discards allowed; discards of IBQ required
		At-sea Catch Monitoring - Non-whiting: Alt 2 - At-sea observers required
		Shoreside Whiting: Observers would be required in addition to or as a replacement for video monitoring
		At-sea Whiting: Observers would be required in addition to or as a replacement for video monitoring
		MS and CP: Remove reference to "supplemental video monitoring on processors may also be used"
		Shoreside Catch Monitoring - Include as specified
		Catch Tracking Mechanisms - Include as specified
		<u>Landing Hour Restrictions: Landing hours may be <del>not</del> restricted</u>
		Vessel Certification - Include as specified
		Program Performance Measures - Include as specified
Data Collection	A-2.3.2	Include as specified
Program Costs	A-2.3.3	Cost Recovery: Option 1 - Fees up to 3% consistent with 303A(e) Magnuson Stevens Act, page 86, costs recovery shall be for costs of management, data collection, analysis and enforcement activities.
Program Duration and Modification	A-2.3.4	<p><del>Include as specified: 4 year review process</del> The Council shall begin a review of the TIQ program no later than 5 years after implementation of the program. The review will evaluate the progress the TIQ program has made in achieving the goal and objectives of Amendment 20. The result of this evaluation could include dissolution of the program, revocation of all or part of quota shares, or other fundamental changes to the program. Holders of quota shares should remain cognizant of this fact when making decisions regarding their quota shares, including buying selling, and leasing of these shares.</p> <p>The Council shall consider the use of an auction or other non-history based methods when distributing quota share that may become available after initial allocation, such as quota that results after a stock transitions from overfished to non-overfished, when Quota share from an AMP is no longer needed, when "use it or lose it" quota shares are forfeited, and if any quota is available after the initial or subsequent reviews of the program are completed.</p> <p>The specific form of the auction or other method of distribution shall be</p>

<b>Motion 25 as amended</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
		designed to achieve the goals of Amendment 20, specifically including minimizing the adverse effects from an IFQ program on fishing communities to the extent practical.
Pacific Halibut IBQ	A-4	Establish limit for legal-sized Pacific halibut bycatch mortality through the use of an IBQ in the trawl fishery up to 10% of the Area 2A Constant Exploitation Yield (CEY) as set by the International Pacific Halibut Commission. This amount will be set initially at 10% and may be adjusted through the biennial specifications process.
Other Provisions		Require that all QP be deposited into a vessel account each year
		Require that all retained IFQ non-whiting groundfish in the non-whiting groundfish fishery be landed shoreside (i.e., no at-sea landings allowed for non-whiting groundfish). Ensuring that non-whiting groundfish continues to be delivered shoreside helps protect shoreside processors and communities that have historically relied on groundfish deliveries.
		Initiate a trailing action process to require eligibility criteria to own or hold QS (e.g., ownership interest in a vessel or permit) to help ensure that QS holders have direct ties or investments in the fishery. Requirements should not be so onerous so as to preclude or discourage crew members, for example, from acquiring QS and entering the fishery.

Mr. Anderson moved and Mr. Myer seconded Motion #7 of the WDFW motion package 1 (Motion 26), to adopt as the Council's preferred alternative for the shoreside sector:

<b>Motion 26</b>		
<b>Topic</b>	<b>Section</b>	<b>Council Preferred Alternative</b>
Adaptive Management	A-3	It is the intent of the Council to have an adaptive management program for the shoreside non-whiting sector. Up to 10% of the non-whiting QS will be reserved for this program. QS will be divided among the 3 states. QS/QP will be provided through separate, but parallel, processes in each of the three states (e.g., through the use of regional fishery associations or community stability plans or other means). Further details will be developed through a trailing action with the intent of having the adaptive management provisions apply during the first year of implementation of the trawl rationalization program.

Ms. Vojkovich supported the motion. Ms. Vojkovich noted that throughout the discussion of adaptive management we have talked about it being within the Council's purview and not a state responsibility to go off on its own. She expressed her view that it would be within the way the Council operates but state-specific, i.e. whatever process it is in the state. She was concerned about state costs. Mr. Anderson did not concur. He said he would expect a process within the respective states that would bring forward recommendations to the Council, though his thoughts were not entirely formed on this issue. He did not see independent state programs and decision-making outside the Council process but that there would be independent public processes within the states that would bring recommendations forward to the Council. Ms. Vojkovich asked if there would be Council guidelines that would run the program. Mr. Anderson replied that as the further details are developed through the trailing action, some criteria and protocols would be developed as part of that process.

Mr. Moore moved and Mr. Myer seconded an amendment (Amendment to Motion 26) to adopt the following:

The Council will allocate 10% of target species quota shares (QS) to be set aside for fishing communities.

The Council will distribute these shares to fishing communities (as defined) on a first-come, first-serve basis with no less than 3% available to fishing communities in each of the states of Washington, Oregon, and California. Distributions will be made in perpetuity subject to future action by the Council. Special accumulation caps will apply to fishing communities. Upon dissolution of a fishing community, QS will revert to the Council to be redistributed. At the end of the 6 year period following initial implementation of the IQ system, any QS not distributed to fishing communities or returned following dissolution of a fishing community shall be distributed to initial recipients of QS on the same basis as QS were originally distributed.

Definition of fishing community:

A fishing community shall consist of one shoreside processor (as defined under A-2.1.1(c)) of non-whiting groundfish and at least 2 entities owning or holding non-whiting groundfish quota shares. The fishing community may include other entities. Members of the fishing community must demonstrate by a signed contract among all parties that QS issued to the fishing community will be harvested and processed in the port where the processor is located and must provide a business plan showing how the QS will be used.

Mr. Moore said he is trying to figure out a way to get at this issue of how do we protect local processors and communities without taking away fish from the fishermen. We have heard that people support processors, but no one wants to give QS to processors. Processors want QS because they are worried about the effects of consolidation in light of their experiences with the trawl buyback program. Section 303A(c)(3) of the MSA provides a solution in that it allows QS to be allocated to fishing communities. The term is misleading because while it implies a municipality, port or some other political organization, the NOAA Technical memorandum on design and use of LAPPs states that the “revised MSA sets up procedures for the Councils to create fishing communities.” He envisions this to work by setting aside 10 percent of the groundfish target species QS. The formation of fishing communities is entirely voluntarily. This will require fishermen and processors to work together. The NOAA Tech memo provides guidance on the types of provisions that would be included in the business plan. He expects that guidance would be used. He specified a six year timeframe for triggering the reversion of unused QS back to the initial QS recipients because six years was too long for fishermen to boycott these fishing community associations but not so long that there would be significant economic harm to fishermen given the amount of fish that would be in the program. By allowing QS to remain with the fishing community we avoid some of the pit falls with the BC system, e.g. not having continuity in business planning. A system that allows for planning and partnership is important. This provides the basis for that, gets us out of the box around the issue of an initial allocation to processors and provides an opportunity, especially in small ports, for processors and fishermen to work together.

In response to a question from Mr. Williams, Mr. Moore said the reference to “perpetuity” was that in order to support the business plans of entities representing the fishing community you need to have some long range assurance. Once these are established they keep the QS for as long as they carry out the business plan and they remain as a legally contracted entity. With respect to the entities that joined with the processors to form a community association, the two other entities would not be processors (e.g., they could be a boat or The Nature Conservancy).

Mr. Anderson said a copy of Mr. Moore's motion should be provided to the committee that will work on this proposal, but at this time we should not be moving forward with a motion with this amount of detail. Mr. Moore said if we can take a look at this seriously later, he would withdraw his amendment. The amendment to Motion 26 was withdrawn.

Motion 26 passed unanimously.

#### **F.4 Final Consideration of Inseason Adjustments (if Needed)**

This agenda item was cancelled. See Agenda Item F.1.

### **G. Coastal Pelagic Species Management**

#### **G.1 Stock Assessment Review (STAR) Panel Terms of Reference for 2009**

##### **G.1.a Agenda Item Overview (11/04/08; 3:12 p.m.)**

Mr. Mike Burner provided the agenda item overview.

##### **G.1.b Scientific and Statistical Committee Report**

Dr. Steve Ralston provided Agenda Item G.1.b, Supplemental SSC Report. Dr. Ralston clarified for Mr. Moore that the SWFSC recognizes the additional burden of completing a full assessment every year, but noted that personnel exists to complete the task and with annual full assessments, changes should be minimal and require less review time. Dr. Ralston reviewed the proposed May and September Stock Assessment Review (STAR) panel dates and noted that the new SSC Coastal Pelagic Species (CPS) subcommittee chair, Dr. Andre Punt, has a busy schedule but is available for these dates.

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

Dr. Sam Herrick provided Agenda Item G.1.c, Supplemental CPSMT Report.

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

None.

##### **G.1.e Council Action: Adopt Terms of Reference for Coastal Pelagic Species STAR Panels for Public Review**

Mr. Anderson moved (Motion 11) to adopt the recommendations in Agenda Item G.1.b, Supplemental SSC Report, and direct the SSC and its CPS subcommittee to consider the recommendations of the CPS management team (CPSMT) and the relevant comments under Agenda Item G.2, and to revise and publish the draft well in advance of the March 2009 Council meeting. Ms. Vojkovich seconded the motion.

Motion 11 passed unanimously.

Mr. Burner stated that the SSC is planning to revise the document by the end of the year and to post a public review draft on the Council webpage by January 2009.

## **G.2 Pacific Sardine Stock Assessment and Management Measures**

### **G.2.a Agenda Item Overview (11/04/08; 8:18 a.m.)**

Mr. Burner provided the agenda item overview.

### **G.2.b National Marine Fisheries Service Report**

Dr. Russ Vetter and Dr. Kevin Hill provided a powerpoint presentation that reviewed the NMFS survey approach and what the biology of Pacific sardine (sardine) appears to indicate. Dr. Vetter answered several clarifying questions of Council members and generally characterized the Pacific sardine population as migratory with primary spawning grounds in southern California. The population exhibits highly variable migration and spawning to the north that is dependent on environmental conditions and is very difficult to predict. Dr. McIsaac asked if the sampling of eggs in the California bight is prone to missing the heart of the spawning in years like 2008 where the data seems to suggest considerable spawning occurred in Mexican waters, and if so, is there any correction factor applied in the assessment model. Dr. Vetter said there is no correction factor in the assessment and the SWFSC has had limited success with coordinated sampling with Mexico. There have been efforts to use oceanographic conditions in Mexico to extrapolate the egg estimates, but data is lacking for key components such as zooplankton densities.

Dr. Kevin Hill provided a powerpoint presentation on the latest Pacific sardine updated assessment results and implications for management. Dr. Hill clarified a few aspects of the model and addressed an egg sampling concern of Mr. Moore's by noting that the current index of abundance is the best available, but it will always be limited by political boundaries and ship time, and will miss some of the spawning areas. However, the 2007 STAR Panel investigated whether the egg production method was adequately synoptic and the investigation revealed that there is no chronic bias in the sampling. At Mr. Anderson's request, Dr. Hill reviewed the methods he and the assessment reviewers used to gradually add in new data sources to investigate how and why the updated model was behaving inconsistently. He continued to note that the historic trajectories of both models indicate a concerning downward trend in the biomass and that the end points of the two model estimates are not statistically different from one another.

Ms. Vojkovich asked if there were model results developed that are not being presented. Dr. Hill noted that the Stock Assessment Team (STAT) preferred model run was rejected because the methods employed were outside the bounds of the terms of reference for an updated assessment. He felt that the STAT approach was a step in the right direction, but without a full STAR Panel, it is impossible to determine if it is the best approach.

### **G.2.c Reports and Comments of Agencies and Advisory Bodies**

Chairman Hansen introduced Dr. Jim Balsiger, the NOAA Assistant Administrator for Fisheries, who will speak later in the meeting relative to trawl rationalization.

Dr. Steve Ralston provided Agenda Item G.2.c, Supplemental SSC Report. Following the report, Dr. Ralston clarified for the Council that the SSC is putting forward only the two assessment approaches in the report and that the SSC felt the choice of one over the other was more a question of process and policy and not a question of science. He also clarified that the SSC discussed the possibility of rolling over the harvest guideline (HG) from 2007 and agreed that such an approach was unacceptable from a population dynamics standpoint because the current model demonstrates that the population is dominated by a single, declining year-class. The SSC and its CPS subcommittee reviewed the full suite of model

runs and rejected many due, in part, to process, but also to avoid picking modeling approaches based on whether or not they had an effect on the outcome.

Dr. Sam Herrick provided Agenda Item G.2.c, CPSMT Report, referencing Agenda Item G.2.c, Supplemental CPSMT Report 2. Dr. Herrick confirmed that the decrease in HG will have economic effects on the fishery and communities and that those considerations were a part of the CPSMT discussions. However, the CPSMT also felt it was important to utilize the most recently available data and to try to stay within the terms of reference. Mr. Burner clarified that the 1,200 mt being proposed as a research set-aside was identified by both the CPS advisory subpanel (CPSAS) and the CPSMT and that the CPSAS has specific recommendations regarding when it can be used and how to treat it if all or part of it goes unused for research.

Mr. Mike Okoniewski and Mr. John Royal provided Agenda Item G.2.c, CPSAS Report. Mr. Okoniewski confirmed for Mr. Helvey that the CPSAS's recommendation to take overages in either the directed or incidental fisheries in one period from the next period's directed fishery is under the second bullet of the CPSMT statement pertaining to inseason actions. Ms. Vojkovich asked about the reality of conducting the proposed research in 2009. Mr. Okoniewski noted that a plan is in the works, but what is more uncertain is the funding. The CPSAS is recommending that any unused portion of the research set-aside be rolled over into the directed fishery in the third period.

Mr. Burner responded to concerns expressed by Mr. Helvey about getting full Council and NMFS review of the research proposal in advance of a NMFS consideration of an exempted fishing permit. Mr. Burner noted that the SSC statement for Agenda Item G.1 includes a recommendation for reviewing proposed survey methods during a May STAR Panel meeting. The proposal and the STAR report could be brought before the Council in advance of the survey schedule.

#### **G.2.d Public Comment (11/04/08; 11:10 a.m.)**

Mr. Mike Okoniewski, Pacific Seafoods, Woodland, WA  
Mr. Jerry Thon, Astoria Holdings, Astoria, OR  
Mr. Ben Enticknap, Oceana, Portland, OR  
Mr. Ryan Kapp, F/V Lauren L. Kapp, Bellingham, WA  
Ms. Diane Pleschner-Steele, California Wetfish Producers, Buellton, CA  
Mr. Peter Ciaramitaro, F/V Maria, San Pedro, CA  
Mr. Vince Lauro, F/V Endurance, San Pedro, CA  
Mr. John Dorio, F/V St. Katherine, San Pedro, CA  
Mr. Ciro Ferrigno, F/V Ferrigno Boy. San Pedro, CA  
Mr. Vince Torre, Tri-Marine Fish Company, San Pedro, CA  
Mr. Tom Libby, Point Adams Packing Company, Astoria, OR  
Mr. Pierre Marchand, Jessie's Ilwaco Fish Company, Ilwaco, WA  
Mr. Rob Zuanich, Purse Seine Vessel Owners Association, Seattle, WA  
Mr. Richard Carroll, Ocean Gold Seafood, Westport, WA  
Ms. Julie Sherman, Marine Fish Conservation Network, Portland, OR

#### **G.2.e Council Action: Adopt Pacific Sardine Harvest Guideline and Management Measures (11/04/08; 2 p.m.)**

Ms. Vojkovich asked Mr. Feder (NOAA GC), for guidance on Council action on this matter, specifically whether the Council is held to something equal to or less than the recommendations of the SSC. The boundaries under which the Council is operating are not clear given the SSC has not endorsed the assessment and has put forward a policy determination regarding harvest levels. Mr. Feder noted that the

MSA requirement referenced by Ms. Vojkovich and Ms. Sherman speaks to the Council setting annual catch limits (ACLs) that do not exceed the fishing level recommendations of the SSC. He noted that legal advice on the subject may not be as clear as the Council would like because Federal guidelines on the use of ACLs are not final and the ACL requirement is not required prior to 2010. Mr. Feder did not have a particular comment on the SSC recommendations, but noted the SSC has narrowed the decision to two outcomes. Additionally, as with many fishery actions, the Council's task is to consider the available record and use its best judgment when making recommendations to NMFS. NMFS and the Department of Commerce will review the Council recommendation and the administrative record before making a final determination on Pacific sardine harvest regulations.

Mr. Moore referenced the research set-aside and asked if the proposed research would require an EFP, and if so, are there provisions in the Council's Council Operating Procedure (COP) or the CPS FMP for EFPs? Mr. Burner said the CPS FMP does have provisions for EFPs that would ultimately be approved by the NMFS Southwest Regional Office. The Council does not have a COP on EFP approval that is specific to CPS, but does have COPs for HMS and groundfish EFPs. Mr. Burner noted that the results of the Pacific Northwest (PNW) pilot survey were first available in October, the same time the assessment and management measures were discussed. The short time between then and this Council session precluded the development of a detailed proposal. However, it would be possible to develop such a proposal over the winter and present it to the Council, a STAR Panel, and NMFS in the spring in advance of the proposed summer research. Should any part of the EFP process fail (e.g., funding, scientific review, regulatory action, etc.) there is a proposed mechanism to roll the research set aside into the directed fishery. Therefore, if it is the Council's intent to maximize the chances for effective research in 2009, the research set aside with its inseason rollover provision is something the Council should strongly consider adopting.

Mr. Moore said the Council could set aside fish for research as part of management actions today, encourage proponents of the research project to bring it before the Council in March or April, and have it reviewed by a STAR panel in May. He asked if this schedule would provide sufficient time for NMFS to go through the regulatory process in advance of the July-August research time frame.

Mr. Helvey said NMFS would need to publish a Notice of Intent (NOI) regarding the issuance of an EFP with a minimum 30 day public comment period. He felt that if the Council considered an EFP proposal in March or April and it was favorably reviewed by a STAR panel in May, NMFS would have enough time to publish the NOI and issue an EFP by July 2009.

Mr. Anderson noted the instability in the assessment, particularly when PNW length composition data is introduced, and asked for clarification on Table 9 on page 47 of the assessment (Agenda Item G.2.b, Supplemental Attachment 1). SSC member Dr. Ray Conser filled in for Dr. Hill who had a family emergency to attend to. Dr. Conser reviewed the table of multiple model runs and explained that each column represents a model run that utilizes a different set of input data to illustrate the effect that each data set has on the outcome, including the resulting harvest guidelines. He added that the SSC and its CPS subcommittee reviewed these model runs and focused, not on the harvest guidelines, but rather on the variability and sensitivity demonstrated by the new data. The SSC concluded that the projection model and the strict update model could represent the status of the stock and concluded that choosing one over the other is a policy call of the Council. Dr. Conser also explained for Mr. Anderson that Table 9 was not designed to represent the full range model uncertainty, rather to illustrate the effects the new data had on model sensitivity. A better way to characterize the full range of uncertainty would be to focus on the two models put forward by the SSC and examine the 95 percent confidence intervals for those runs. This would result in a broader range of outcomes as reported on page 138 of Agenda Item G.2.b, Attachment 1.

Mr. Steve Williams referenced model runs that Dr. Hill spoke to that were attempts by the STAT to resolve the model instability, but resulted in model changes that violated the terms of reference for an assessment update. Dr. Conser confirmed that the STAT did explore the effective sample sizes of the PNW length composition data which resulted in model runs that are not outside the range of outcomes in the current version of the assessment.

Mr. Anderson asked Dr. Ralston to elaborate on the SSC's recommendation to not implement the 2008 harvest guideline for 2009. Dr. Ralston noted that both of the model runs put forward by the SSC show a decline in the resource because there is a strong year class that is maturing out of the fishery. It appears the stock is declining, the question remains to what degree. The option was discussed and did not receive very much support and the SSC generally concluded that it was not sensible to recommend a status quo harvest level for a declining stock.

Dr. Ralston clarified for Mr. Moore that the two models recommended by the SSC are not intended to present risk averse or risk neutral policies. The determination between the two is more of a process determination between using the most recent data or adhering strictly to the terms of reference. Model formulations other than those approved by the 2007 STAR process were outside the terms of reference and were not considered.

Ms. Vojkovich asked if the STAT-proposed model that was previously eliminated could still be used if not bound by process in the terms of reference. Dr. Ralston said the STAT proposal down-weighted the compositional data from the PNW, but that methodology could not be fully reviewed and the results are not greatly different than the results recommended by the SSC. The SSC subcommittee did not find it to be a scientifically credible exercise to run through all the various models and mix and match datasets. The STAT method of down-weighting a data source was viewed as nothing more than selecting desirable data and avoiding problematic data.

Ms. Vojkovich said that she sees problems with the data, with the assessment model, and the process, and asked for guidance on how to consider the full impact of the combined difficulties. Dr. Ralston said the SSC would likely have developed a single harvest recommendation for the Council in the face of scientific uncertainty or data issues, but the SSC avoids getting into policy decisions and is therefore asking the Council to determine how strictly to follow the Council approved process. The model runs put before the SSC CPS subcommittee did not meet the acceptance criteria of the terms of reference and no clear guidance exists on how to proceed. The SSC CPS subcommittee determined that the forecast model based on the 2007 STAR panel recommendations was the most scientifically defensible. Ideally, this assessment would have been reevaluated through a process similar to the groundfish "mop up" process, but the annual nature of CPS management precludes this.

Ms. Vojkovich said that in most cases, adhering to the process saves time and results in sound deliberations. However, sometimes the process can fail because it is impossible to foresee every potential problem. She felt using a harvest guideline from 2008 probably does not make sense from a conservation standpoint, but as she considers all of the model runs, the scientific uncertainty, and the process limitations, she ends up at a harvest range of 67,000-71,000 mt. Alternatively, in light of all the uncertainty and data issues, it may be wise to simply consider the average size of the fishery in recent years, roughly 90,000 mt, which is also within the range of outcomes presented in Table 9 of Agenda Item G.2.b, Supplemental Attachment 1. Given the evident decline in the resource, it may also be practical to reduce the recent average which again would likely result in a number in the 60,000-70,000 mt range. Ms. Vojkovich is not convinced that the scientific approach is the best way to inform this decision, nor is she convinced that a Delphi approach, loosely based on recent landings, is appropriate either.

Mr. Steve Williams said that it is his understanding that the STAT recommendations resulted in a stable model that used all the new data and resulted in a harvest guideline of 71,320 mt, but did not meet the terms of reference.

Mr. Steve Williams moved (Motion 9) to set the harvest guideline at 71,320 mt based on the original STAT proposal which was not excluded based on science, but because it did not meet the process criteria. He felt the motion is in keeping with the policy determination that has been asked of us. Mr. Moore seconded the motion.

Mr. Anderson spoke in opposition to the motion, not because he felt the resource would suffer, rather he felt it is the wrong policy call. He distinctly heard Dr. Ralston say that had there not been a process issue, the SSC would have recommended a single number within the range of the two proposals in the SSC statements, 56,946 mt and 66,932 mt. Mr. Anderson has no doubt that this is a suspect stock assessment to use for management decisions that affect peoples' lives. He strongly supported reviewing the model and the PNW pilot survey during the 2009 STAR process. If we are going to maintain the standards and integrity of the Council process and our adherence to scientific advice, the value of 66,932 mt is the maximum number the Council should be approving for 2009.

Mr. Moore said that if we had not had the procedural problems he would have joined Mr. Anderson's opposition. However, he felt we need to consider our confidence in the supporting science and although the motion may add a small amount of management risk, it is within the range of uncertainty and represents the type of policy determination the Council has been called on to provide.

Mr. Helvey agreed with Mr. Anderson that this is not a biological issue and that the additional harvest proposed will not make a difference to the resource, but, as Dr. Ralston stated, the resource does appear to be in decline and recent surveys suggest decreased productivity. He felt that adopting a value that is outside the range recommended not only by the SSC, but also by the CPSMT, is bad policy and he will be voting in opposition to the motion.

Ms. Vojkovich agreed that the additional harvest proposed in the motion will make a significant difference to the resource or the economics of the industry and voiced her opposition to the motion.

Motion 9 failed with Mr. Warrens, Mr. Moore, Mr. Williams and Ms. Fosmark voting in favor, all others were in opposition.

Mr. Anderson moved and Mr. Myer seconded a motion (Motion 10) to adopt a 2009 Pacific sardine maximum harvest guideline of 66,932 mt, including a 6,500 mt incidental set aside and a 1,200 mt research set aside, and instruct the 2009 STAR panels to do a thorough review of the models and to work toward the goal of incorporating the PNW pilot aerial survey in future stock assessments.

Mr. Anderson clarified for Mr. Moore that his motion does not include a specific process for reviewing an EFP for research activities, it simply sets aside a portion of the harvest guideline for those purposes. A process for this review could come in a future motion.

Mr. Anderson clarified for Mr. Helvey that it was the intent of the motion to first have the PNW aerial survey methodology reviewed and second have it incorporated into the assessment model as appropriate.

Ms. Vojkovich asked for a friendly amendment to include the allocation scheme for the harvest guideline and the incidental set asides as contained on page two of Agenda Item G.2.c, CPSMT Report, with an incidental landing allowance of no more than 20 percent Pacific sardine by weight. Both the seconder and maker agreed to accept the friendly amendment. Chairman Hansen clarified for Mr. Burner that the

motion includes the bulleted list of inseason actions on page 3 of Agenda Item G.2.c, CPSAS Report (as corrected under the report of the CPSAS earlier in this agenda item).

Ms. Vojkovich wanted to clarify that this proposed action is strictly a policy decision relative to the 2009 harvest specifications and management measures and does not endorse a particular assessment or assessment model. Mr. Anderson agreed and said he specifically left the adoption of an assessment or an assessment model out of the motion.

Motion 10 passed unanimously.

Mr. Moore requested as Council guidance, a recommendation that under administrative business on Friday, the Council consider the inclusion of a brief agenda item in March or April in 2009 to review any EFPs for CPS research that might be brought forward. The Council concurred.

At this time, Chairman Hansen gave the floor to Dr. Jim Balsiger, the NOAA Assistant Administrator for Fisheries.

Dr. Balsiger thanked the Council for the opportunity to comment during a busy and challenging agenda. He also thanked the Council for its dedicated process, and stated that, in his opinion, the regional council system is the best way to manage regional fisheries. It has been 26 years since he has seen the Council in action and commended the Council for its business-like, respectful, and well-run meetings where difficult decisions are made. Working through matters in a congenial manner speaks well for the system and for the Council and its staff. NOAA understands the work is hard and the compensation is low and appreciates the Council's contribution to the nation.

Regarding trawl rationalization under Agenda Item F.3, Dr. Balsiger recognized the long process the Council has dedicated to this issue and noted the final action scheduled for this meeting. Dr. Balsiger encouraged the Council to take a hard look at the issues and take final action at this meeting. Fisheries rationalization has been shown to work in places around the world and can help solve conservation and economic problems for the nation. It is often said that "the devil is in the details," and for trawl rationalization it can be said that "the devil is in the initial allocation." Once the difficult decisions on initial allocations are done, the future benefits regarding capacity, economics, and competition will prove to be a tremendous asset for this region.

Dr. Balsiger continued by adding that rationalization programs are not cheap, but he wanted to reassure the Council that rationalization programs remain a high priority for the Department of Commerce, NOAA, and NMFS. Rationalization has solved many problems around the country. He could not promise that there are funds currently available for any program the Council designs, but he could say that finding the funding for this rationalization program is a priority. Often these programs are expensive at first and there will be challenges, but he again encouraged the Council to take final action this week and he pledged NOAA support. He regrets that he will not be able to stay for the week and hear the valuable testimony. NOAA Headquarters and Washington D.C. is currently frenetic with the transition to a new administration and Dr. Balsiger said he welcomed any questions.

Mr. Anderson thanked Dr. Balsiger for his time and his comments. Dr. Balsiger again thanked the Council for its time and for its effective work and for answering the call on many difficult fishery issues.

## **H. Administrative Matters**

### **H.1 Approval of Council Meeting Minutes (11/07/08; 2:42 p.m.)**

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

Dr. Coon provided the Agenda Item overview.

#### **H.1.b Council Action: Approve April Council Meeting Minutes**

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 12) to approve the April 2008 minutes as shown in Agenda Item H.1.b, April 2008 Council Minutes. Motion 12 passed unanimously.

### **H.2 Fiscal Matters**

#### **H.2.a Budget Committee Report (11/07/08; 2:43 p.m.)**

Mr. Jerry Mallet provided Agenda Item H.2.a, Supplemental Budget Committee Report.

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

None.

#### **H.2.c Public Comment**

None.

#### **H.2.d Council Action: Consider Budget Committee Recommendations**

Mr. Mallet moved and Mr. Mark Cedergreen seconded a motion (Motion 13) to approve the report of the Budget Committee as shown in Agenda Item H.2.a, Supplemental BC Report. Motion 13 passed unanimously.

### **H.3 Membership Appointments and Council Operating Procedures**

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

Dr. Coon provided the agenda item overview.

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

None.

#### **H.3.c Public Comment**

None.

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

Ms. Vojkovich moved and Ms. Kathy Fosmark seconded a motion (Motion 14) to appoint Ms. Melodie Palmer-Zwahlen to fill the California Department of Fish and Game position on the Salmon Technical Team (replacing Mr. Allen Grover). Motion 14 passed unanimously.

Mr. Frank Lockhart moved and Mr. Rod Moore seconded a motion (Motion 15) to appoint Dr. Thomas Helser to fill the NMFS NWR position on the STT (replacing Mr. Dell Simmons). Motion 15 passed unanimously.

Mr. Dave Ortmann moved and Mr. Dan Wolford seconded a motion (Motion 16) to appoint Dr. Louis Botsford to fill the vacant at-large position on the SSC. Motion 16 passed unanimously.

Mr. Frank Lockhart moved and Ms. Kathy Fosmark seconded a motion (Motion 17) to appoint Ms. Laura Pagano to fill the vacant non-voting conservation position on the Groundfish Allocation Committee. Motion 17 passed unanimously.

Mr. Mark Cedergreen moved and Mr. Rod Moore seconded a motion (Motion 18) to adopt the amendment language for COP 2, Advisory Subpanels, as found in Agenda Item H.3.a, Supplemental Attachment 1, to specify that the Council Chair may make an interim appointment to advisory subpanels to avoid lack of representation of any advisory sector while the formal replacement procedure is proceeding. Motion 18 passed unanimously.

Chairman Don Hansen directed the Council staff to solicit nominees for the processor positions on the GAP and GAC to fill the vacancies that will be left by the resignation of Ms. Heather Mann (effective following the November Council meeting). Over the winter, he will make interim appointments to ensure a processor representative attends the January GAC meeting and March GAP meeting. The Council concurred.

## **H.4 Future Council Meeting Agenda and Workload Planning (11/07/08; 9:21 p.m.)**

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

Dr. Don McIsaac provided the agenda item overview.

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

None

### **H.4.c Public Comment**

Written public comment Agenda Item H.4.c, Supplemental Public Comment was handed out.

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

The Council members worked with the Executive Director, Deputy Director, and Council staff to put together the March 2009 agenda and future workload items. Trailing work on the trawl rationalization will need to occur at the March and April meetings with regard to accumulation limits and adaptive management. There will likely be two Groundfish Allocation Committee meetings prior to June.

**ADJOURN**

The 196th Council meeting was adjourned at 9:36 p.m. on Friday, November 7, 2008.



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Council Chairman

**April 9, 2009**

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Date