

MINUTES
206th Session of the
Pacific Fishery Management Council
November 4-9, 2010

Hilton Orange County/Costa Mesa Hotel
3050 Bristol Street, Costa Mesa, California 92626

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A. Call to Order

A.1 Opening Remarks

Mr. Mark Cedergreen, Chairman, called the 206th meeting of the Pacific Fishery Management Council to order at 10:30 a.m., Thursday, November 4, 2010. There was a closed session held from 9:30 a.m. to 10:30 a.m. to discuss litigation and personnel matters.

Mr. Frank Lockhart, National Marine Fisheries Service (NMFS), reported on recent management changes within the Northwest Region (NWR) to create a new “Salmon Management Division.” He introduced Mr. Bob Turner who has been appointed as the new Assistant Regional Administrator for the Salmon Management Division and who, as a new Council member designee for the NWR, will handle the salmon agenda items. This management change will bring salmon harvest management and hatchery management together.

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. William L. “Buzz” Brizendine (At-Large)
Mr. Mark Cedergreen, Chairman (Washington Obligatory)
Mr. Brian Corrigan (U.S. Coast Guard, non-voting, designee)
Mr. David Crabbe (California Obligatory)
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region, designee)
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)
Mr. Jerry Mallet (State of Idaho Official, designee)
Mr. Rod Moore (At-Large)
Mr. Dale Myer (At-Large)
Mr. Herb Pollard, (Idaho Obligatory)
Mr. Tim Roth (U.S. Fish and Wildlife Service, non-voting designee)
Mr. David Sones (Tribal Obligatory)
Mr. Gordon Williams (State of Alaska Official, non-voting designee)
Mr. Steve Williams (State of Oregon Official, designee)
Mr. Dan Wolford, Vice Chair (At-Large)
Ms. Marci Yaremko (State of California Official, designee)

The following persons also served as Council member designees during various portions of the meeting: Ms. Marija Vojkovich, State of California Official; Mr. Mark Helvey, NMFS, Southwest Region; Ms. Michele Culver, State of Washington Official; Mr. Dave Ortmann, State of Idaho Official; Ms. Gway Kirchner, State of Oregon Official; Mr. Bob Turner, NMFS NWR; and Dr. Peter Dygert, NMFS NWR).

The following Council member was absent for the entire meeting: Mr. David Hogan (U.S. State Department, non-voting)

A.3 Executive Director's Report

Dr. Don McIsaac briefly reviewed the two Informational Reports on salmon with the Council and noted some additional details with regard to the agenda and overall meeting. He noted that there needed to be a change in Agenda Item C to accommodate a Council response to some late-breaking issues. With regard to Agenda Item C.1, there are actually three matters: a Washington Department of Fish and Wildlife (WDFW) report on state enforcement efforts; a U.S. Coast Guard Report; and a request for comments from the National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement on a penalty report and setting annual enforcement priorities. To allow the Enforcement Consultants (EC) time to develop a statement on these issues, the final action on C.1 will occur on Tuesday.

A.4 Agenda

Mr. Mark Cedergreen introduced the agenda.

A.4.a Council Action: Approve Agenda

Mr. Moore moved and Mr. Williams seconded Motion 1 to approve the meeting agenda as shown in Agenda Item A.4, November Council Meeting Agenda, with the suspension of Council action on Agenda Items C.1.b through C.1.d until Tuesday.

B. Open Comment Period

B.1 Comments on Non-Agenda Items

B.1.a Advisory Body and Management Entity Comment

Mr. Russell Dunn, NOAA Fisheries Recreational Division, provided a PowerPoint presentation on the results of NOAA's recent Recreational Fisheries Summit with information on the recreational initiative and future plans.

B.1.b Public Comment

Mr. Aaron Longton and Ms. Sara Bates, fleet managers for California West Coast Stock Genetic Identification Project, reviewed Informational Report 1 with the Council.

Mr. Kris Kubiak and Mr. Gerry Richter, Los Osos, California, spoke about problems regarding the allocation of sablefish in the Conception management zone between the open access and limited entry fisheries in view of the increase in the open access fishery.

Mr. Anthony Chatwin, Executive Director for National Fish and Wildlife Foundation, spoke about the Fisheries Innovation Fund, which is a grant program to support public/private partnerships for sustainable fisheries in the US. They expect to award about \$2.2 million for 2011. The application deadline is November 30, 2010.

B.1.c Council Discussion of Comments as Appropriate

None.

C. Enforcement Issues

C.1 Washington Department of Fish and Wildlife (WDFW) Enforcement Report

C.1.a Agenda Item Overview

Mr. Jim Seger provided the agenda item overview.

C.1.b Report of the WDFW Enforcement Division (11/04/10; 1 p.m.)

Deputy Chief Mike Cenci made an enforcement presentation on DVD. He also presented Agenda Item C.1.b, Supplemental WDFW Report.

C.1.c. Reports and Comments of Advisory Bodies and Management Entities

Mr. Brian Corrigan reviewed Supplemental C.1.c, Supplemental USCG Report.

Mr. Paul Ortiz, NMFS spoke about Agenda Item C.1.c, Supplemental Proposed Penalty Schedule, which streamlines how agency attorneys go about adopting penalties for cases.

Mr. Phil Anderson provided a PowerPoint presentation (Agenda Item C.1.c, Supplemental WDFW PowerPoint).

Dr. McIsaac thanked agency staff for their excellent presentations and explained that the remainder of this agenda item was suspended until Tuesday to allow time for the development of advisory body comments on the enforcement issues presented by NMFS.

(11/09/10; 8:38 a.m.)

Mr. Seger reintroduced the agenda item.

LT Jeff Samuels provided Agenda Item C.1.c, Supplemental EC Report and Agenda Item C.1.c, Supplemental EC Report 2.

Mr. Tommy Ancona presented Agenda Item C.1.c, Supplemental GAP Report.

Mr. Mike Okoniewski read Agenda Item C.1.c, Supplemental CPSAS Report.

Mr. Doug Fricke provided Agenda Item C.1.c, Supplemental HMSAS Report.

C.1.d Public Comment

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, Oregon

Mr. Peter Flournoy, International Law Offices, San Diego, California

C.1.e Council Discussion

Ms. Culver moved Motion 28 for the Council to write a letter relative to the draft NOAA policy for the assessment of civil administrative procedures which summarizes the comments received from our advisory bodies and transmit it by the deadline. Mr. Moore seconded the motion.

Mr. Wolford asked if the motion included asking for an extension to the comment deadline in the letter. Ms. Culver said we have received good comments from the advisory bodies that seem to have common themes and address the points noted in a shift in policy by NOAA from allowing a more regional approach to a national approach that narrows the range and is more prescriptive.

That is probably the key point. Given the timing of our meeting, there should not be a problem of meeting the December 20 deadline for the purposes of this letter.

Mr. Steve Williams noted the last paragraph of the Enforcement Consultants (EC) report speaks to recommendations about getting together and looking at this on a regional level. That could lead to an extension.

Motion 28 carried. Mr. Lockhart abstained.

Ms. Culver moved Motion 29 to have the Council write a letter to NOAA to incorporate the comments provided in Supplemental EC Report 2 relative to the Joint Enforcement Agreement (JEA) with the states. Mr. Brizendine seconded the motion.

Ms. Culver said she cannot overstate the importance of the JEA to the Washington state enforcement program. The reduction in the JEA funding is a major impact especially in light of state budget situations and decline in resources and personnel. Mr. Steve Williams, Ms. Vojkovich, and Mr. Brian Chambers concurred with regard to their respective entities.

Mr. Lockhart asked Ms. Vicki Nomura, Special Agent in Charge (SAIC), to comment. She stated the regional funding decisions were made at the Washington, DC level by factoring the overall funding into a matrix of activities. The states and the two SAICs are trying to get more information on this so the questions can be answered.

Motion 29 carried. Mr. Lockhart abstained.

Council then went to Agenda Item H.5.e.

D. Ecosystem Based Management

D.1 Ecosystem Science Information Session (11/04/10; 2:10 p.m.)

D.1.a Agenda Item Overview

Mr. Mike Burner provided the agenda item overview.

D.1.b North Pacific Fishery Management Council Report

Dr. Patricia Livingston, Director of the Alaska Fishery Science Center's Resource Ecology and Fisheries Management Division and Chair of the North Pacific Fishery Management Council's (NPFMC) Scientific and Statistical Committee (SSC), provided Agenda Item D.1.b, Supplemental North Pacific PowerPoint.

Several Council members thanked Dr. Livingston for her presentation and commended the NPFMC for the work they have done. Dr. Livingston said that the NPFMC approach took many years to develop and was modified as additional information led to better understandings of the ecological role of managed and protected species. Council questions focused on how the ecosystem is prioritized, reported, and responded to by the NPFMC. Dr. Livingston stated that a graded system (i.e., red/yellow/green) is being tested that relies on science where available, but

also involves some qualitative decisions. Council application of ecosystem-based information has largely, but not solely, been used to inform precautionary approaches for federally-managed species. The coordination with the State of Alaska and work through forums like the Alaska Marine Ecosystem Forum broaden the ecosystem considerations considerably and have helped in the assessment of the cumulative effects of fishery management decisions.

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

None.

D.1.d Public Comment

Mr. Ben Enticknap, Oceana, Portland, OR

D.1.e Council Discussion on Ecosystem Science Information Session

Mr. Frank Lockhart thanked the Council Chair and the Executive Director for scheduling this agenda item and said that regular, short presentations like this are and will be beneficial to the Council. Mr. Lockhart also thanked Dr. Livingston for her willingness to travel to our meeting and for her excellent presentation that was informative and provided many approaches for the Council to think about.

E. Habitat

E.1 Current Habitat Issues

E.1.a Agenda Item Overview (11/04/10; 3:08 p.m.)

Ms. Jennifer Gilden provided the agenda item overview.

E.1.b Report of the Habitat Committee

Mr. Joel Kawahara provided Agenda Item E.1.b, Supplemental HC Report.

E.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

E.1.d Public Comment

Dr. Geoff Shester, Oceana, San Francisco, CA

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

Vice Chair Dorothy Lowman asked the Council to first consider the draft letter to the U.S. Bureau of Reclamation (BOR) outlining specific questions about California water issues.

Mr. Steve Williams and Vice Chair Wolford agreed that the letter should be specific.

Mr. Steve Williams moved, and Mr. Moore seconded Motion 2 to approve the transmittal of the letter to the Bureau of Reclamation (BOR) as shown in Agenda Item E.1.a, Attachment 1.

Mr. Anderson said that if the discussion between the BOR and Habitat Committee (HC) is going to be broader than the specific items in the letter, the BOR should be made aware of that. Ms. Gilden said she was in communication with BOR and would convey that.

Ms. Yaremko thanked the HC for developing the questions in advance. Mr. Roth also supported and thanked the HC for their work.

Motion 2 carried unanimously. [Break]

The Council reconvened at 3:56 p.m. No additional Council action was taken.

E.2 Deepwater Coral Information Report

E.2.a Agenda Item Overview (11/04/10; 4:01 p.m.)

Mr. Kerry Griffin provided the agenda item overview.

E.2.b Report on Recent Coral Research Activities

Dr. Elizabeth Clarke provided Agenda Item E.2.b, Supplemental NOAA PowerPoint.

E.2.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Kawahara presented Agenda Item E.2.c, Supplemental HC Report. Mr. David Sones presented Agenda Item E.2.c, Supplemental Tribal Report.

E.2.d Public Comment

Dr. Geoff Shester, Oceana, San Francisco, CA

E.2.e Council Discussion on Deepwater Coral Information Report

Dr. McIsaac said this agenda item was designed as an informational report; however, the HC report included recommendations relative to input into the next two years' field design. This is an opportunity for Council input.

Mr. Anderson noted that the strategic plan looks at the period 2010-2019. Dr. Clarke said the West Coast program is only 2010-2012. However, the science centers have staff on both the Essential Fish Habitat Review Committee (EFHRC) and HC who will continue to solicit input. She noted that the HC's recommendations on priorities were helpful and the HC should be provided updates so their feedback would be helpful in the future.

Mr. Anderson clarified that the HC would be the logical advisory body to work with. He asked whether other advisory body comments could be solicited. Dr. Clarke said it would be useful to have a joint meeting at the end of FY 2011's field season, when more is known about the essential fish habitat process. The September (2011) Council meeting would be best for this. Advisory body, tribal, and other comments could be provided then. Dr. Clarke said they will be finalizing their report for this year (FY 2011) on December 15, 2011.

Mr. Anderson reiterated that people should provide Dr. Clarke some input, independent of formal Council direction.

F. Salmon Management

F.1 Preseason Salmon Management Schedule for 2011

F.1.a Agenda Item Overview (11/05/10; 8:06 a.m.)

Mr. Chuck Tracy presented the agenda item overview and summarized Agenda Item F.1.a, Attachment 1.

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

Dr. Robert Kope presented Agenda Item F.1.b, Supplemental STT Report.

F.1.c Public Comment

None.

F.1.d Council Action: Adopt a 2011 Preseason Management Schedule

Mr. Anderson recommended the Salmon Technical Team (STT) Preseason Report I meeting occur the week of February 22, 2011. The Council concurred.

Chairman Cedergreen asked if the public hearing schedule was acceptable. The Council concurred.

F.2 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures

F.2.a Agenda Item Overview (11/05/10; 8:29 a.m.)

Mr. Tracy presented the agenda item overview.

Mr. Steve Williams asked if far-north migrating spring Chinook stocks could be considered exceptions to the annual catch limits (ACL) requirements for internationally managed stocks. Dr. Dygert replied the Salmon Amendment Committee (SAC) was looking into that. They have found that the Washington coastal stocks appear to have similar ocean distribution and harvest impact patterns to Washington coastal fall Chinook stocks, and so a complex including both spring and fall stocks may be appropriate; however, mid-Columbia spring stocks were less similar to other stocks covered under the Pacific Salmon Treaty.

Mr. Anderson asked if pink salmon were removed from the Fishery Management Plan (FMP), could the comanagers set harvest regulations at the state or tribal level. Ms. Cooney replied yes, although if Oregon licensed vessels were also harvesting pink salmon, there would have to be Oregon regulations as well.

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

Mr. Tracy presented Agenda Item F.2.b, Supplemental SAC PowerPoint. Dr. Pete Lawson presented Agenda Item F.2.b, Supplemental SSC Report. Mr. Butch Smith presented Agenda Item F.2.b, Supplemental SAS Report. Mr. Dave Hillemeier, Yurok Tribe, presented Agenda Item F.2.b, Supplemental Tribal Comments.

F.2.c Public Comment

None.

F.2.d Council Action: Review the Adopted Alternatives and Provide Further Guidance for the Public Review Draft

Dr. Dygert moved (Motion 3) to adopt for public review Stock Classification Alternative 2 in Agenda Item F.2.a, Attachment 1, as the preliminary preferred alternative (PPA), and continue to investigate the possible application of the ACL international exception to the far-north migrating stocks and stock complex. Mr. Anderson seconded the motion.

Motion 3 carried unanimously.

Mr. Anderson recommended that the Stock Classification PPA retain pink salmon in the FMP and acknowledge the inability to make overfishing determinations. The Council concurred.

Dr. Dygert moved and Ms. Vojkovich seconded (Motion 4) to adopt for public review the Status Determination Criteria (SDC) PPA in Agenda Item F.2.a, Attachment 1, with the following revisions:

Change arithmetic mean to geometric mean for overfished and approaching overfished criteria, and add 3-year geometric mean to the rebuilt criterion.

Mr. Roth noted the verbiage in the PPA referring to arithmetic mean would also need to be revised. Dr. Dygert asked if the motion should be amended.

Dr. Hansen recommended the motion be withdrawn.

Dr. Dygert offered to withdraw Motion 4. Ms. Vojkovich concurred.

Motion 4 was withdrawn.

Dr. Dygert moved and Ms. Vojkovich seconded Motion 5 to adopt for public review Status Determination Criteria Alternative 3 in Agenda Item F.2.a, Attachment 1, as the PPA.

Motion 5 carried unanimously.

Mr. Anderson stated that there was insufficient progress in the co-manager discussions regarding Washington Coastal and Puget Sound coho reference points to take action or provide guidance;

however, those discussions were a priority for the co-managers and they should reach a conclusion before the next Council meeting. Dr. Dygert agreed.

Dr. Dygert felt no action was currently needed on actions when SDC are triggered, but the Council could provide guidance, and should be aware of the issues. Dr. McIsaac asked if the SAC recommendations were to narrow the scope of assessments associated with an overfished status determination. Mr. Tracy replied yes, at least in terms of the required elements, which would relate to areas of Council authority; however, the SAC proposal would also maintain flexibility for the Council to request assessment of additional topics depending on the specific circumstances.

Ms. Vojkovich asked if the timeline for assessments could be shortened given the focus on Council actions. Mr. Tracy replied that there was no explicit timeline recommended but many of the issues would be identified in the preseason process.

Mr. Anderson recommended assessing marine and freshwater survival in triggering an overfished determination as part of an initial assessment. Mr. Steve Williams and Mr. Wolford supported Mr. Anderson's approach. Ms. Vojkovich replied that it was appropriate for the first step of an assessment to focus on areas that Council action could address, rather than wasting time identifying issues over which the Council had no authority.

Dr. McIsaac asked if there would be a PPA on actions associated with SDC triggers that reflects Council discussion in the next draft Environmental Assessment (EA). Mr. Tracy replied yes, for the draft EA developed for final action.

Dr. Dygert recommended adding qualifying language about how *de minimis* fisheries would be implemented under the PPA since it was not a proscriptive control rule at abundance levels less than the S_{MSY} /minimum stock size threshold (MSST) midpoint.

Mr. Wolford agreed that qualitative language would be appropriate, but prescriptive language would not allow consideration of year-specific circumstances.

Dr. Dygert moved (Motion 6) to amend the PPA for *de minimis* fishing provisions to indicate an intention to develop qualitative guidance on how fisheries would be reduced as run size declines. Ms. Vojkovich seconded the motion.

Motion 6 carried unanimously.

Dr. Dygert recommended final action on Amendment 16 be no later than June 2011 to ensure implementation by the 2012 preseason process. Ms. Vojkovich recommended the Council delay final action on Amendment 16 until June 2011. The Council concurred.

F.3 Progress Report on Sacramento River Fall Chinook Overfishing Assessment

F.3.a Agenda Item Overview (11/05/10; 12:53 p.m.)

Mr. Tracy presented the agenda item overview.

F.3.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Robert Kope presented Agenda Item F.3.b, Supplemental STT Report.

Dr. McIsaac asked if the STT intended to evaluate stock status with regard to all Amendment 16 alternatives or just the PPA. Dr. Kope replied the STT would use the PPA, but recognizes that a rebuilding plan is not required until after Amendment 16 was scheduled for adoption, and therefore the final criteria would be used at that point.

Dr. McIsaac asked if use of alternative criteria from Amendment 16, which will not be approved, would affect the Council's responsibilities at the March 2011 meeting. Ms. Cooney replied that considering alternative criteria in the STT assessment would be appropriate at the March meeting.

Mr. Butch Smith presented Agenda Item F.3.b, Supplemental SAS Report.

F.3.c Public Comment

None.

F.3.d Council Discussion and Guidance on Progress Report on Sacramento River Fall Chinook Overfishing Assessment

Mr. Wolford recommended the STT consider the statements from the Salmon Advisory Subpanel (SAS) and HC in their final assessment.

F.4 Mitchell Act Hatchery Draft Environmental Impact Statement (DEIS)

F.4.a Agenda Item Overview (11/05/10; 1:30 p.m.)

Dr. John Coon provided the agenda item overview.

F.4.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Coon summarized the Mitchell Act Committee Report (Agenda Item F.4.b, Supplemental MAC Report). Mr. Anderson led the Council through the draft proposed letter attached to that report, in particular, the summary of elements in the bulleted list on pages 4 and 5.

Mr. Butch Smith and Ms. Irene Martin provided Agenda Item F.4.b, Supplemental SAS Report.

The Council Chairman referenced the SSC and STT statements that were provided in the briefing book as guidance to the Mitchell Act Committee (MAC).

Mr. Bob Turner, NMFS, spoke to the need and purpose of the proposed actions in the DEIS and how the funding issue has affected the process. He also emphasized the need to recognize the adverse effects of hatchery production on wild fish.

F.4.c Public Comment

Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA

F.4.d Council Action: Finalize Comments on the DEIS

Mr. Steve Williams moved and Mr. Ortmann seconded Motion 7 to adopt and transmit the letter to National Marine Fisheries Service regarding the Mitchell Act DEIS as contained in Agenda Item F.4.b, Supplemental MAC Report. The motion includes submittal of comments from Council advisory bodies from both the September and November Council meetings.

Mr. Tim Roth informed the Council that the U.S. Fish and Wildlife Service (USFWS) will be providing comments as part of the Department of the Interior submission. Relative to today's discussions, USFWS believes the DEIS has a number of shortcomings and it is not clear as to what the DEIS means to future hatchery programs. Among other things, the USFWS believes a more focused discussion of the Mitchell Act (MA) is needed to better inform the first purpose of the DEIS. There needs to be a comparison of operational costs, production levels, and socioeconomic benefits of the MA program relative to other programs in the basin.

Mr. Steve Williams stated that the letter does an excellent job of addressing the issues that have come through a number of different entities. This document has brought a lot of people together (industry, management entities, public). It represents the importance of the MA and what it means to the region.

Mr. Anderson said we have the report from the Hatchery Science Review Group and others that demonstrate that hatchery fish can cause harm, can impede recovery to listed populations. We have been complaining and continue to try to get increases in funding for our hatcheries so they can get in compliance so they don't cause adverse impacts or impede recovery; that is what this is really all about.

Mr. David Sones was in support of the letter and noted the tribes will also be submitting their own comments. Mr. Gordy Williams agreed with the earlier comments supporting the letter and noted Alaska Department of Fish and Game (ADFG) will also be transmitting their own comments.

Motion 7 carried. Mr. Bob Turner (NMFS) abstained.

F.5 2010 Salmon Methodology Review

F.5.a Agenda Item Overview (11/05/10; 3:01 p.m.)

Mr. Tracy presented the agenda item overview.

F.5.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Peter Lawson presented Agenda Item F.5.b, Supplemental SSC Report. Mr. Larrie LaVoy presented Agenda Item F.5.b, Supplemental MEW Report. Dr. Peter Dygert presented Agenda Item F.5.b, Supplemental TWC Report. Dr. Robert Kope presented Agenda Item F.5.b, Supplemental STT Report. Mr. Kent Martin presented Agenda Item F.5.b, Supplemental SAS Report.

F.5.c Public Comment

None.

F.5.d Council Action: Adopt Final Methodology Changes for 2011

Mr. Steve Williams moved (Motion 8) to approve the Oregon coastal natural coho abundance predictor forecast model as recommended by the SSC, STT, and the Model Evaluation Workgroup (MEW). Mr. Rod Moore seconded the motion.

Motion 8 carried unanimously.

Mr. Phil Anderson moved (Motion 9) to adopt the Chinook Fishery Regulation Assessment Model (FRAM) with additional coded-wire-tag groups for Columbia River summer Chinook as described in Agenda Item F.5.a, Attachment 4 for use in 2011 management, consistent with recommendations from the SSC and MEW. Dr. Dygert seconded the motion.

Motion 9 carried unanimously.

Dr. Dygert recommended continued investigation of the FRAM bias issues related to mark-selective fisheries. The Council concurred.

Mr. Anderson recommended adherence to the 30-10 guidance for evaluating 2011 mark-selective fishery alternatives, but noted that it was guidance, not a formally adopted rule. The Council concurred.

Dr. McIsaac recommended the Council provide policy guidance on alternative tule abundance-based approaches at the next scheduled report of the Tule Chinook Workgroup (TCW) in April 2011. Dr. Dygert replied it would also be appropriate to have a progress report in the March briefing materials, as NMFS needed to assess progress in the task list identified in the 2010 NMFS Guidance letter in order to provide appropriate guidance for 2011 fisheries.

G. Pacific Halibut Management

G.1 2011 Pacific Halibut Regulations

G.1.a Agenda Item Overview (11/06/10; 8:02 a.m.)

Mr. Tracy presented the agenda item overview.

G.1.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Lockhart presented Agenda Item G.1.b, Supplemental NMFS Report. Mr. Steve Williams presented Agenda Item G.1.b, ODFW Report. Mr. John Holloway presented Agenda Item G.1.b, Supplemental GAP Report.

G.1.c Public Comment

None.

G.1.d Council Action: Adopt Final Proposed Changes to the 2011 Pacific Halibut Catch Sharing Plan and Annual Fishery Regulations

Mr. Steve Williams moved (Motion 10) to adopt the following proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery shown in Agenda Item G.1.b, ODFW Report: Second Season Option B and Third Season Option C. Mr. Moore seconded the motion.

Motion 10 carried unanimously.

Mr. Lockhart moved (Motion 11) to adopt the proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery and the codified groundfish regulations shown in Agenda Item G.1.b, Supplemental NMFS Report 2. Ms. Culver seconded the motion.

Motion 11 carried unanimously.

H. Groundfish Management

H.1 Initial Consideration of Revisions to the Groundfish Biennial Management Process

H.1.a Agenda Item Overview (11/06/10; 8:30 a.m.)

Ms. Kelly Ames provided the agenda item overview.

H.1.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Martin Dorn presented Agenda Item H.1.b, Supplemental SSC Report. Mr. Rob Jones, Groundfish Management Team (GMT), gave a verbal report. He said the GMT supports improvement to the biennial process, including data feeds and the parsing out of workload. Further, the GMT supports the formation of a task force to scope improvements. Mr. Shems Judd provided Agenda Item H.1.b, Supplemental Groundfish Advisory Subpanel (GAP) Report.

H.1.c Public Comment

None.

H.1.d Council Action: Review White Paper Recommendations and Direct Further Efforts

Mr. Frank Lockhart said Council staff did a good job outlining the various concerns in the white paper (Agenda Item H.1.a, Supplemental Attachment 2). He supports actions that improve the biennial process both on the Council floor and behind the scenes. Every Council decision has workload impacts that translate to NMFS, Council staff, and the GMT. Communication and circulation of early draft documents has varied between cycles, largely as a result of competing workload. Mr. Lockhart believes that balancing workload is necessary to ensuring good communication which will ultimately result in a successful process.

Mr. Moore agrees with Mr. Lockhart about looking at both sides of the process. In his experience as both a Council and GAP member, he sees the need for discipline. In the white paper, some of the scheduling suggestions have been around for a long time but not implemented. Mr. Moore is supportive of a taskforce assigned to scope solutions; however, he also acknowledges that the

Council must take responsibility for what is happening on the Council floor with regard to workload and timing of decisions. The Council must make decisions in a timely manner so the GMT has time to complete their work.

Ms. Culver said the magnitude of the problem is unclear and she was unsure if the problems were related to the process or competing priorities and staff resources. She hopes that the discussions will include an exploration of the processes in other Councils. For example, the Regional Administrator in the North Pacific has discretion to adjust fisheries if necessary. She is interested to know what other tools are available and whether a simple plan amendment could accommodate those tools.

Ms. Marija Vojkovich said her thoughts are similar to Ms. Culver's comments. She also noted that as Council members we must control ourselves and recognize that not everything can be the highest priority. We need to be clear about the risk to the resource when thinking about the various deadlines. For example, in groundfish we rushed to implement the ACL amendment, yet in salmon there is a different timeline.

Ms. Eileen Cooney said the discussion reminds her of the Amendment 17 committee discussions and the white paper frames our experiences since that time. She said part of the problem is related to workload and the timing of decision making. She recommends that the documents prepared by the Amendment 17 committee be reviewed in order to better understand what needs to be adjusted. With regard to Ms. Culver's comments, Ms. Cooney noted that the West Coast fisheries are much more integrated than the North Pacific fisheries.

Ms. Gway Kirchner said that the 2011-2012 process was the first cycle for several GMT members and there was limited guidance. This was in contrast to the 2007-2008 process, when there was good communication from the Northwest Region and General Counsel.

Dr. McIsaac noted systematic issues like producing an Environmental Impact Statement (EIS) every two years versus every five years as is done in the North Pacific and Gulf. Further, the growing National Environmental Policy Act requirements, analysis, and agency review time cannot be accommodated in our existing process. In the past, we completed the analysis and review in two months. Under Amendment 17, we built a process that accommodated a six month period, which seemed like an enormous amount of time. It is now apparent that six months is not long enough for all the steps. The committee might also explore FMP amendments that make the process simpler while still meeting the various requirements. He thinks the committee would be instrumental in developing a schedule and solutions for the long term.

Ms. Cooney said before the committee meets, NMFS and Council staff should talk about process improvements as well as review the Amendment 17 history.

Ms. Kirchner said we should also review the tasks assigned to the various analysts. In her opinion, the GMT was asked to produce materials that should have come from the SSC or economists.

Chairman Cedergreen referenced the white paper recommendation to form a task force. Dr. McIsaac said if there is Council concurrence the task force could be created and appointments made under Agenda Item K.3.

Ms. Vojkovich said she is hesitant to form a task force, given existing workloads and the potential for increased workload as a result of the NMFS disapproval of Amendment 16-5. If the committee is formed, we should explore efficiencies like webinars and conference calls.

Mr. Lockhart said there is an intermediate solution that would include NMFS and Council staff discussions for solutions, given the existing process. Given Ms. Vojkovich's comments, he is not sure where to go. However, he feels that the first step should be discussions between Council staff and NMFS.

Ms. Culver moved and Mr. Moore seconded Motion 12 that the Council consider a task force similar to the recommended composition described on page 13 of the white paper (Agenda Item H.1.a, Supplemental Attachment 2). The timing of meetings and the product delivery would be determined at a later date or through discussions under Agenda Item K.4 at this meeting.

Ms. Culver said this was an important issue but hopes it will not be an arduous process. She supports a smaller group dedicated to scoping out ideas for Council consideration. Given the composition of the group, as Ms. Vojkovich noted, the timing and expectations should be discussed after the next agenda item. She recommends the expectations be discussed under Agenda Item K.4.

Ms. Vojkovich said based on the motion, Mr. Lockhart's suggestion for the next steps would be dropped and a task force formed. Ms. Culver said based on her motion, the task force would be formed but it would not preclude discussions between NMFS and Council staff. We can identify the specifics on Tuesday, under Agenda Item K.3. Mr. Lockhart said he is comfortable with that approach.

Motion 12 carried unanimously.

H.2 National Marine Fisheries Service Report on Groundfish

H.2.a Regulatory Activities, Including Update on Biennial Specifications and Management Measures, Amendment 16-5, and Amendment 23 (11/06/10; 9:53 a.m.)

Mr. Frank Lockhart spoke about the Pacific whiting treaty which is still a Congressional bill. The agency is operating under the assumption that the treaty will not be in place for 2011.

Mr. Lockhart spoke about the progress of the Pacific whiting fishery in 2010. The shoreside sector has harvested 83 percent of their quota and the fishery is slowing down. He has been informed that none of the Oregon plants intend to process whiting for the rest of the year, but Westport will process. Mr. Lockhart said he believes the mothership sector has completed their operations for the year. The catcher-processor sector is still fishing. NMFS has taken two reapportionment actions to move whiting from the treaty fishery to the non-treaty, distributed to

all three sectors. The agency believes they have the authority to reapportion but there is still a strong difference of opinion from the two tribes.

Mr. Lockhart said the goal was to implement the catch share program and the harvest specifications on January 1, 2011. However, the agency is proposing a modified schedule (Agenda Item H.2.a, Supplemental NMFS PowerPoint). Mr. Lockhart noted the April court decision relative to the Natural Resources Defense Council (NRDC) case. The court confirmed many of the approaches and suite of management measures to support the overfished species rebuilding plans. However, the court had concern for three species—darkblotched, cowcod, and yelloweye rockfish. The court overrode the Council's harvest levels and inserted their own. The court specified a yelloweye optimum yield (OY) of 14 mt. We are now operating under the court order. In June, the Council took action to reduce yelloweye impacts to stay within the 14 mt OY by eliminating research plans and exempted fishing permits (EFPs). The Council was also took final action for the 2011-2012 harvest specifications. NMFS notified the Council because the analysis and actions needed to be consistent with the court order. Mr. Lockhart said he would focus on yelloweye rockfish because it is a good example. Final Council action was an ACL of 20 mt with an annual catch target of 17 mt for yelloweye rockfish. Council and NMFS staff began working on the DEIS and in order to stay on schedule, the DEIS was submitted for public comment in August. The agency received several comments on the DEIS. Mr. Lockhart said the agency determined there is not an adequate DEIS to support the decision-making process. The agency cannot take action until there is a sufficient final EIS (FEIS); therefore the specifications will be delayed.

Mr. Lockhart reviewed the presentation and proposed schedule (Agenda Item H.2.a, Supplemental NMFS PowerPoint). NMFS will continue to work on the FEIS, with help from the GMT, Council staff, and state staff, and propose to complete it in March. The court-ordered deadline to implement compliant harvest specifications is April 29, 2011. The regulatory action is complicated but will be accomplished in part through an emergency rule. The emergency rule will address any harvest specifications that are disapproved. The proposed and final rule will include the approved harvest specifications and management measures for both 2011 and 2012.

Mr. Lockhart noted that the June Council action included Amendment 16-5, which covers the revisions to the overfished species rebuilding plans and flatfish proxies. The preliminary NMFS review of the DEIS indicates there is insufficient analysis to support the rebuilding plans; however, a final decision has not been made and cannot be made until the public comment period on the Amendment has closed (early December). Mr. Lockhart said based on the preliminary review, the agency believes it may disapprove the entire Amendment 16-5 package.

Ms. Eileen Cooney outlined the differences between a regulatory amendment and an FMP amendment. She noted that FMP amendments have statutory time frames; once the FMP amendment is submitted to the agency, there is a limited time for review and decision-making (90-95 days). There must be an FEIS available to make a decision on the amendment. Since the FEIS is not available, Amendment 16-5 will likely be disapproved.

Mr. Lockhart said if the Amendment 16-5 disapproval occurs, the amendment will be returned to the Council for further consideration for 2012, likely in the March, April, June timeframe.

Mr. Lockhart said the 2010 regulations will be in place unless modified by an emergency rule or the final rule, which is anticipated in April. The agency has identified three conservation concerns with maintaining the 2010 harvest specifications in 2011 – petrale sole, darkblotched, and sablefish where the 2011 ACL is lower than in 2010. For the first two species, we don't believe there is going to be a problem since we do not anticipate a ramped up trawl fishery early in the year. The weather at the start of the year is not ideal for fishing; further, several trawl participants have expressed interest in the crab fishery at the start of the year. Mr. Lockhart requests input on this assumption. For sablefish, Mr. Lockhart noted the problems related to inseason management which will be addressed at this meeting.

Mr. Lockhart said that the Amendment 20 implementation regulations were tied to the 2011-12 harvest specifications. Since there are issues with the 2011-12 specifications, the agency believes it needs an emergency rule to issue the QPs based on the lower of either the 2010 or anticipated 2011 harvest specifications that are the lowest. QP accounts can be topped off mid-year, should the harvest specifications increase when the final specifications rule is issued.

Relative to the sablefish harvest specifications, Mr. Lockhart said the limited entry fixed gear fishery begins in April. Therefore, we must use an emergency rule to implement the lower sablefish harvest specifications and associated tiers and QPs for the trawl fishery.

The Council continued to ask Mr. Lockhart to clarify details of the disapproval and timeline for regulatory matters.

Dr. Don McIsaac spoke about workload and the three-meeting planning process that will occur under Agenda Item K.4.

Mr. Lockhart said the agency will consider extending the comment period on the proposed rule to implement the 2011-12 harvest specifications and management measures for another 30 days. This would provide time for Council comment.

H.2.b Fisheries Science Center Activities

Dr. John Ferguson provided the Northwest Fisheries Science Center report (Agenda Item H.2.b, Supplemental NWFSC Report) and noted the availability of two other reports in the supplemental materials (Agenda Item H.2.b, Supplemental NMFS Mortality Report and Agenda Item H.2.b, Supplemental NMFS Pacific Halibut Report).

H.2.c Reports and Comments of Advisory Bodies and Management Entities

None.

H.2.d Public Comment

None.

H.2.e Council Action on NMFS Report on Groundfish: As Appropriate (11:21 a.m.)

Ms. Marija Vojkovich outlined the process in California for adopting regulations and making changes, noting that the process Mr. Lockhart described will further complicate matters. Ms. Michele Culver said there were similar concerns in Washington. Both Council members were concerned about public confusion, disruption, and missed opportunities.

Ms. Culver and Mr. Lockhart discussed the associated staff workload involved with finalizing the EIS.

[Break from 11:45 a.m. until 1 p.m.]

Ms. Gway Kirchner spoke to the regulatory complexities in Oregon. She also agreed with Ms. Vojkovich and Ms. Culver with regard to public confusion.

Mr. Lockhart said NMFS could assist in public outreach regarding the complex regulatory structure in 2011.

Mr. Wolford said there appears to be a new process occurring, one in which NMFS bypasses the Council without public participation. He noted that the process was intended to include public participation. Mr. Wolford said it seems as if the partnership between the Council and NMFS is eroding.

Mr. Lockhart noted that the comment period on the proposed rule will be extended to facilitate public input. As far as the Council and NMFS partnership, he will endeavor to improve the relationship.

Ms. Culver recommended the Council schedule an agenda item in March to solicit more input on these matters. Mr. Lockhart said NMFS will consider input from the Council even if it is after the comment period.

Dr. McIsaac requested that a draft of the emergency rule for implementing the 2011 harvest specifications could be provided at the March Council meeting. Mr. Lockhart said he is most comfortable sharing the FEIS, which is the document that will support the agency action.

Mr. Wolford and Ms. Dorothy Lowman asked Mr. Lockhart to clarify the type of information that would be useful in the public comment period. Mr. Lockhart said the disapproval letter, which is anticipated in December, will better explain the areas that need further analysis.

Ms. Cooney said there are concerns regarding the rebuilding plans that will be outlined in the disapproval letter.

The Council continued discussions on the FEIS process and regulatory timelines.

H.3 Consideration of Inseason Adjustments - Part I

H.3.a Agenda Item Overview (11/06/10; 1:47 p.m.)

Ms. Ames provided the agenda item overview.

H.3.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Robert Jones provided Agenda Item H.3.b, Supplemental GMT Report and GMT Report 2. Mr. Jeff Samuels provided Agenda Item H.3.b, Supplemental EC Report. Mr. Tommy Ancona provided Agenda Item H.3.b, Supplemental GAP Report.

H.3.c Public Comment

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR
Mr. Brad Pettinger, Director of the Oregon Trawl Commission, Brookings, OR
Mr. Robert Ingles, Golden Gate Fishermen's Association, Hayward, CA
Mr. Daniel Platt, GAP Open Access Representative, Fort Bragg, CA
Mr. Bill James, nearshore fisherman and Port San Luis Commercial Fishermen's Association, Salem, OR
Mr. Giovanni and Tony D'Amato, limited entry fixed gear, south of Point Conception, CA
Mr. Gerry Richter, limited entry fixed gear, Santa Barbara, CA
Mssrs. Jack and Antonio Murachi, limited entry fixed gear, south of Point Conception, CA

H.3.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2010 and 2011 Groundfish Fisheries (Part II on Monday if necessary)

Vice Chairwoman Dorothy Lowman suggested the Council consider the 2010 fishery adjustments first.

Mr. Rod Moore asked Mr. Frank Lockhart to speak further about the darkblotched rockfish issue in the trawl fishery. According to the GMT analysis and projection model, no matter what action is taken in November, including closing all trawl fisheries, the model projects the OY will be exceeded. If we shut down the fishery we would put at risk the whiting catcher-processor fishery, the shoreside whiting fishery, and the non-whiting trawl fishery, causing a great deal of economic harm to communities. Mr. Moore noted that a projection above the OY is not overfishing. He asked Mr. Lockhart for guidance.

Mr. Lockhart said in general the Council has done a good job managing the fisheries to the OY, which is the goal. There are overfished stocks where the requirement is to rebuild in as short a time possible, taking into account communities and other relevant factors. In this situation, it appears that it will be highly unlikely that total impacts will be below the OY. He believes the Council can consider the impacts of their actions. Keeping catch at or as close as possible to the OY remains the goal, however, he does not believe that the Council has to shut every fishery down that catches darkblotched rockfish.

Ms. Marija Vojkovich asked about the recent court order and the management target. Mr. Lockhart said the court order basically resulted in increasing the darkblotched rockfish OY. NMFS provided guidance that we should model to a lower level, consistent with the 2010 OY,

prior to the court's decision. That was the NMFS guidance. The ideal circumstance is to maintain impacts at the lower OY, but given the GMT analysis, it is not possible. Mr. Lockhart says this is a policy decision on the part of the Council. The goal is to stay as close as possible to the OY. If a fishery closure and the impacts to communities and fishermen are unacceptable, the Council can take that into consideration.

Ms. Vojkovich said since June, when the darkblotched discussion occurred, we attempted to adjust trip limits, Rockfish Conservation Area (RCA) boundaries, and other items to accommodate the new, lower target. The Council has tried to modify the fishery inseason to manage to the lower number, but it has not worked.

Mr. Moore moved Motion 13 to adopt for the limited entry, mid-water trawl fishery the following darkblotched rockfish bycatch caps: 5.5 mt for the mothership sector, 5.5 mt for the catcher-processors sector, and 5.0 mt for the shoreside sector. For the limited entry non-whiting trawl fishery, move the seaward RCA boundary to 250 fm effective as soon as possible, and close the slope rockfish fishery as of December 1, 2010. Ms. Gway Kirchner seconded Motion 13.

Mr. Moore said the Council is in an awkward situation, relying on a model that is uncertain, but it's all that we have for projecting impacts. The analysis says that no matter what actions we take, we will still exceed the OY. The Council must balance the tremendous value of the trawl fishery against the potential, given the model uncertainty, impact to darkblotched. Mr. Moore said his motion follows the recommendations of the GMT and GAP for the non-whiting trawl fishery. Moving the RCA boundary to 250 fm will stop the impacts to darkblotched. Relative to the whiting fishery, the mothership sector has finished and they have projected darkblotched rockfish impacts of 5.5 mt. The catcher-processor fishery still has about 9,000 mt left of whiting and so far have taken slightly over 2 mt of darkblotched rockfish. Reducing the catcher-processor darkblotched rockfish cap to 5.5 mt gives them a sufficient cushion to take their whiting without going over and allows the U.S. citizens to benefit from that tremendously valuable whiting fishery. The shoreside fishery, based on the latest reports from SeaState, has 10,400 mt of whiting as of two days ago and has taken 4.19 mt of darkblotched rockfish to date. My motion would drop the shoreside cap to 5.0 mt. Mr. Moore emphasized that this is a unique situation and that under trawl rationalization, allocations would not be changed. He believes the trawl fishery will come in under the projected impacts.

Ms. Ames asked Mr. Moore to clarify relative to the non-whiting trawl part of the motion. She asked if the motion adopts Alternative 2 on page 13 of Agenda Item H.3.b, Supplemental GMT Report, which references the 250 fm RCA line and slope rockfish trip limits north of 40°10' N. latitude. Mr. Moore said yes.

Mr. Dale Myer said he reluctantly supports the motion, but we are in a box. The catcher-processors made a conscious decision to delay their fisheries until the fall because historically the bycatch rates are less. Our action sends a bad message that allocations can change at the end of the year. Mr. Myer does, however, acknowledge that Mr. Moore's motion is the best that can be done.

Ms. Vojkovich asked Mr. Moore why the motion did not request voluntary reduction of the trip limits in November as recommended by the GAP. Mr. Moore said he hopes the fleet will voluntarily reduce their catch. Mr. Moore noted that he is a processor representative and he cannot recommend collective actions by processors. He said, as an individual, he hopes that the industry will do their part to conserve the resource.

Mr. Lockhart said the model is very uncertain right now. The Council took action at the June and September meetings in response to the court order and the court and NMFS guidance, however, this result was not anticipated. He said due to the modeling concerns, it looks like we are in a difficult situation, faced with a group of fairly difficult choices. The motion strikes a balance and good effort. However, because of the court order he is going to abstain to maintain the Secretary of Commerce's flexibility in reviewing the Council's action.

Motion 13 carried. Mr. Lockhart abstained.

Mr. David Sones moved Motion 14 that for the tribal fishery, as stated in the GMT report, adopt the Makah request to increase impacts to yellowtail and widow while testing jig machines to reduce bycatch in the rockfish-directed midwater trawl. For period 6, increase the yellowtail rockfish limits to no more than 169 mt, with widow rockfish being no more than 10 percent of the total weight of yellowtail rockfish for that period. Mr. Cedergreen seconded the motion.

Mr. Sones said the request is outlined in the GMT Report.

Motion 14 carried unanimously.

Ms. Vojkovich moved Motion 15 to adopt Option 2 for sablefish south of 36° N. latitude on page 13 of the supplemental GMT report. This option closes the open access fishery on December 1, 2010 and reduces the limited entry trip limits to 1,800 lb/week. Mr. Wolford seconded the motion.

Ms. Vojkovich said the Council has been listening to the issues surrounding open access in the south; there has been a very large increase in activity in the south and we are unable to track the fishery. Most of the people have gone somewhere else for the next month. Sablefish can be released alive with some limited mortality. The limited entry fishery is the preferred fishery, and this was also supported by public comment.

Ms. Culver moved to amend the motion (Amendment 1 to Motion 15) to increase the limited entry and open access daily trip limits north of 36° N. latitude. For limited entry, increase the weekly trip limit from 1,750 lb/week to 2,000 lb/week, and for open access increase period 6 to 400 lbs per day, or one landing per week of 1,500 lbs, with a bi-monthly cumulative limit of 4,500 lbs. Ms. Gway Kirchner seconded the amendment.

Ms. Culver said this motion is supported by the GMT recommendation. Further, the GMT notes that there is no impact on the model output by increasing the limited entry fixed gear weekly limit. Increasing the trip limit increases the economic value of the fishery and provides a

potential safety benefit to the fishermen. Relative to open access, trip limit adjustments are recommended by the GMT, since the fishery is tracking behind relative to the allocation.

Amendment 1 to Motion 15 carried. Mr. Lockhart abstained.

Motion 15 carried. Mr. Lockhart abstained.

Vice Chair Lowman asked for Council guidance on the 2011 fisheries.

Ms. Vojkovich referenced item “c” from the GMT recommendations in Supplemental GMT Report 2. She asked the GMT to model sablefish trip limits south of 36° N. latitude with 55 percent to limited entry and 45 percent to open access. Ms. Vojkovich said she has reviewed historical data since 2009 and the percentages are similar, though in some years open access has harvested more. Her guidance demonstrates a preference for limited entry. The Council concurred.

For 2011 recreational fisheries, Ms. Vojkovich would like to offer some perspective. She has some discomfort with adopting an option that was different than that adopted in June. She also acknowledges that the Council actively manages fisheries several times a year to ensure that the optimum yield is not exceeded. For California, her preference is to leave the adopted season structure for 2011 and manage the allocations of yelloweye inseason. She is concerned about confusion for the public, she does not want to forecast changes in the fishery that may not happen.

Ms. Culver shares a similar perspective and they cannot predict the April decision by NMFS. She does not want to cause unnecessary panic now, therefore she is inclined to follow Ms. Vojkovich’s recommendation and make adjustments in season. Her intent is to start the 2011 fisheries with the regulations recommended by the Council for the biennial cycle and take action in April or inseason as necessary. Relative to research, the GMT referenced the proposed expansion of the International Pacific Halibut Commission (IPHC) survey and the potential WDFW survey. Ms. Culver does not want to preclude the research but would like to communicate these issues to IPHC. Modifications could be discussed, if necessary, after the April decision.

Ms. Gway Kirchner agreed with Ms. Vojkovich and Ms. Culver. The best plan is to minimize disruption and confusion, which would occur if the Council takes action now. It’s best to evaluate the situation in April. The GMT statement alluded to the Oregon Department of Fish and Wildlife (ODFW) EFP which has yelloweye impacts. Under the next agenda item, the agency will announce its decision to remove that EFP from consideration.

Ms. Ames said the 2011 management measures are clear, but asked the states to clarify the intended recreational impacts for 2011.

Ms. Kirchner said to use the final June 2010 GMT scorecard with the following adjustments: 1) set EFPs to 0.1 mt (based on the cancellation of the ODFW EFP), and 2) use 1.3 mt for research, with 1.1 mt for IPHC. This is double the historical IPHC impacts.

Ms. Culver did not disagree with Ms. Kirchner, but also requested that the GMT return with the proposed scorecard and the September scorecard under the next inseason agenda item.

Ms. Ames asked Ms. Kirchner if the guidance was to use the absolute values or the proportions. Ms. Kirchner said the absolute values contained in the scorecard.

Dr. Don McIsaac asked Ms. Ames if the GMT could provide impacts through May 1, since the management measure guidance was to adjust practices after the NMFS action. Ms. Ames said the GMT could provide insight on the amount of effort and catch that would accrue at the start of the year; however, the models do not contain a seasonal component.

Ms. Culver said we should highlight the proposed management measures for 2011 since, according to the regulations, the measures would be the same as the regulations on January 1, 2010.

Ms. Vojkovich provided the list of 2011 management measures for the California recreational fishery: set the Cowcod Conservation Area (CCA) boundary at 30 fathoms (fm), modify the list of species that can be retained in the CCAs, change the sculpin depth extension to 60 fm in the southern area, change the cabezon bag limit, change the lingcod size limit statewide, align the gear restrictions for greenling and cabezon to the lingcod seasons, and modify the lingcod season changes.

Ms. Kirchner said for Oregon recreational, include a cabezon sub-bag limit.

Ms. Culver said for Washington recreational, add the changes to the aggregate bottomfish bag limits and cabezon sub-limit, no retention of bottomfish except rockfish seaward of 30 fms in Marine Area 2, prohibition of bottomfish retention seaward of 20 fms starting in June for Marine Areas 3 and 4.

Ms. Vojkovich said to also add the lingcod file size limit for California recreational. She also believes the items for California recreational are routine inseason adjustments.

Mr. Moore asked Mr. Lockhart to clarify the discussion during Agenda Item H.2, NMFS Report where Mr. Lockhart noted the need to modify sablefish OY and the tiers. Mr. Lockhart said NMFS believes the OY has to be addressed now, but that change would occur under the Emergency Rule. The Council could recommend to NMFS that the change be made.

Mr. Moore asked the GMT to work with the NWR to develop a recommendation for the sablefish tier amounts for Council consideration.

Mr. Lockhart said NWR will review the list and ensure that the recommendations are consistent with routine inseason authority.

H.4 Final Review of Exempted Fishing Permits (EFPs) for 2011

H.4.a Agenda Item Overview (11/06/10; 5:14 p.m.)

Ms. Ames provided the agenda item overview.

H.4.b Reports and Comments of Advisory Bodies and Management Entities

Ms. Gway Kirchner announced that the ODFW decided to remove their EFP application (Agenda Item H.4.a, Attachment 1). The application is being removed as a result of the court order, which lowered the yelloweye rockfish OY and possible funding complications. The agency has decided to put more effort into the yellowtail rockfish EFP, which could provide fishing opportunity while staying within the new, lower OY.

Mr. Robert Jones presented Agenda Item H.4.b, Supplemental GMT Report. Mr. Tommy Ancona presented Agenda Item H.4.b, Supplemental GAP Report.

H.4.c Public Comment

None.

H.4.d Council Action: Adopt Final Recommendations for EFPs

Mr. Rod Moore asked Mr. Frank Lockhart about the GAP and GMT recommendation to increase the Recreational Fishing Alliance (RFA) yellowtail rockfish EFP cap. Mr. Moore said raising the cap has no biological impact, but there may be allocation or process issues. Mr. Lockhart said if the Council were to recommend increasing the cap, it may be possible to include it in the emergency rule that implements the 2011 fishery QPs. Mr. Moore asked if the Council adopted the GMT recommendation for a 10 mt cap and submitted public comment on the proposed rule to implement the harvest specifications, would that be a sufficient process. Yes, said Mr. Lockhart.

Mr. Moore moved and Ms. Kirchner seconded Motion 16 to direct the Executive Director of the Council to provide a public comment on the proposed rule (75FR67810) for implementing the 2011-2012 harvest specifications and management measures to incorporate the GMT recommendation to increase the yellowtail rockfish cap and associated adjustments to the allocations (from 2 mt to 10 mt).

Mr. Moore said the Council already approved this EFP. Yellowtail rockfish is underutilized and this is a very minor adjustment that is largely procedural. The EFP will provide us with good data and a way to provide increased fishing opportunities while avoiding the overfished species.

Mr. Lockhart said due to the unique situation with the 2011-12 specifications and potential disapproval of Amendment 16-5, he will be voting no. In another circumstance, he would have simply abstained.

Motion 16 carried. Mr. Lockhart voted no.

Ms. Ames asked if the Council wished to discuss the EFP process and the issues surrounding accounting for impacts. Vice Chair Wolford said there is no discussion on that.

Mr. Moore asked Ms. Ames about the GAP recommendation for scoping two-year EFPs. Dr. McIsaac said the EFP process is outlined in the Council Operating Procedures and any modifications could be accomplished later in the week under Agenda Item K.3.

Ms. Dorothy Lowman recognized the work that went into the Morro Bay EFP progress report and in particular, on electronic monitoring.

[Council adjourned at 5:38 p.m.]

H.5 Implementation Update for Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation) as well as Scoping of Prioritized Trailing Amendments

H.5.a Agenda Item Overview (11/08/10; 8:15 a.m.)

Mr. Seger provided the agenda item overview.

Mr. LB Boydston provided Agenda Item H.5.a, Supplemental Attachment 2, Community Fishing Association Hearing Summaries.

H.5.b National Marine Fisheries Service Report on Implementation (11/08/10; 8:49 a.m.)

Mr. Frank Lockhart provided a report on the schedule for catch share program implementation and some of the issues of concern.

H.5.c Reports and Comments of Advisory Bodies and Management Entities (11/08/10; 9:47 a.m.)

Ms. Culver reviewed Agenda Item H.5.c, WDFW Report and Agenda Item H.5.c, Supplemental WDFW Report 2. Mr. Sones highlighted Agenda Item H.5.c, Supplemental Tribal Comment. Mr. Lockhart reviewed Agenda Item H.5.b, Supplemental NMFS Report: Background Documents for Council Cost Recovery Discussion. Mr. Jones presented Agenda Item H.5.c, Supplemental GMT Report. Mr. Tommy Ancona presented Agenda Item H.5.c, Supplemental GAP Report.

H.5.d Public Comment (11/08/10; 12:46 p.m.)

Ms. Meghan Mackey, EcoTrust, Portland, OR
Mr. Merrick Burden, Environmental Defense, Seattle, WA
Mr. Joe Sullivan, Environmental Defense, Seattle, WA
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR
Ms. Angela Wratchford, F/V Mandy J, Eureka, CA
Mr. Steve Arvek, Warrington/Westport, WA
Mr. Jim Sievers, trawler, Newport, OR
Mr. Frank Dulcich, Pacific Seafood Group, Clackamas, OR

Mr. Tom Libby, Hallmark Fisheries/Point Adams Packing Company, Astoria, OR
Mr. David Jincks, MidWater Trawlers Cooperative, Newport, OR
Mr. Pete Leipzig, Fishermen's Marketing Association, Fort Bragg, CA
Mr. Don Maruska, Ecosystem Alliance, Morro Bay, CA
Ms. Heidi Happonen, Ocean Companies, Westport, WA
Mr. Ralph Brown, commercial fisherman, Brookings, OR
Mr. Brent Hern, trawler, Newport, OR
Mr. Paul Kujala, trawler, Warrenton, OR

[Break to 3:50 p.m.]

Mr. Brent Paine, United Catcher Boats, Seattle, WA
Mr. Craig Urness, United Catcher Boats, Seattle, WA
Mr. Mark Cooper, trawler, Newport, OR
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR
Mr. Shems Judd, Environmental Defense Fund, West Linn, OR
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

H.5.e Council Action on Amendments 20 and 21: [Note: Final Action taken on Tuesday, November 9]

[11/09/10; 10:08 a.m.]

There was a discussion of whether other topics might be added to the list of trailing actions being considered here, and it was concluded that any additions would have to be made under Agenda Item K.4 (Future Council Meeting Agenda and Workload Planning).

Ms. Culver moved and Mr. Myer seconded Motion 30 to adopt the following:

- 1. Communicate to the International Pacific Halibut Commission that the Council's best estimate of the amount of halibut bycatch for the Area 2A trawl fishery in 2011 that we would recommend be subtracted from the Total Constant Exploitation Yield (TCEY) is 130,000 lbs (legal-sized, net weight).*
- 2. Request the National Marine Fisheries Service revise the trawl bycatch mortality limit (i.e., the amount of trawl halibut bycatch set aside) for 2011 to be 130,000 lbs (legal-sized, net weight) converted to account for both legal-sized and sublegal halibut, expressed in round weight, as soon as possible.*

The proportion of legal-sized halibut from the Northwest Fisheries Science Center report for 2009 of 0.62 (which is based on weight, not numbers of fish) and the net weight to round weight conversion factor of 0.75 would be used as the basis for this conversion. This results in a trawl bycatch mortality limit of 279,570 lbs (legal and sublegal, round weight). From this, the trawl set-asides for at-sea and the area south of 40 degrees, 10 minutes N. latitude

would be subtracted; the remainder would be the amount of trawl individual bycatch quota (IBQ) pounds that would be distributed to limited entry trawl permit holders for 2011.

3. *Follow up with a trailing amendment to analyze the following alternatives for specifying the amount of halibut bycatch to be deducted from the TCEY and the calculation method for conversion to IBQ QPs to be used beginning in 2012:*
 - a. *For the first four years of the trawl rationalization program, the amount to be subtracted from the TCEY would be 130,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ QPs (legal and sublegal, round weight). Beginning with the fifth year of the program, the amount to be subtracted from the TCEY would be 100,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ QPs (legal and sublegal, round weight).*
 - b. *The concept of setting a specific amount of halibut to be subtracted from the TCEY (rather than a percentage) up to a maximum, and use the calculation described above for IBQ QPs. Maximum limits to be analyzed would be 100,000 lbs and 130,000 lbs, both expressed in legal-sized, net weight.*
 - c. *In combination with a. or b., provide for adjustment of the trawl halibut bycatch mortality limit through the biennial management process.*

Mr. Moore asked about the formula (paragraph 2) and the amount to be subtracted South of 40° 10' N. latitude. Ms. Culver indicated that this motion would not change the 10 mt previously adopted by the Council. The purpose of this motion is to set a trawl halibut sector quota amount that acknowledges the reduction in the total catch exploitation yield (TCEY) for Area 2A in recent years, and provides an incentive for halibut bycatch reduction and reduction of discard mortality. It also promotes individual accountability for halibut bycatch by providing an individual mortality rate to halibut discards and provides the flexibility to adjust this amount through the biennial management process. As we have heard through public testimony and from the GAP, halibut is expected to potentially be a constraining species for the trawl IFQ program and at the same time we are trying to balance the reductions that our directed halibut fisheries have taken in recent years as a result of a declining Halibut TCEY or total allowable catch (TAC) for Area 2A. Sticking with a maximum amount for 2011 of the 130,000 pounds that had been previously considered by the Council and is consistent with the Council's previous actions and discussions would achieve a 49 percent reduction in the trawl halibut bycatch amount from what has been seen in 2009. Therefore, she believed this is consistent with the intent of the motion that the trawl fishery would take a bycatch reduction for halibut that is similar to what other fisheries have experienced in recent years in terms of reductions in their respective quotas.

In response to Ms. Vjokovich, Ms. Culver indicated the 10 mt is in legal and sublegal round pounds and would be subtracted from the amount that would otherwise be issued as individual bycatch quota (IBQ). She also explained in more detail how Option 2b would work.

Dr. McIsaac asked if the intent of the motion was for an emergency rule. Ms. Culver stated that her intent is that this be done by January 1, 2011 by whatever vehicle was needed to meet that date. Mr. Lockhart said that it was likely this would require an emergency rule and for that reason he would be voting no.

Motion 30 carried. Mr. Lockhart voted no; Mr. David Sones voted no.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 31 that the Council move forward with the process needed to replace Amendment 6 limited entry open access allocations consistent with the Council's intentions contained in Amendment 21. This motion will address the disallowed portions of Amendment 21 that dealt with allocations, and the intent of the Council was to have Amendment 21 allocations replace Amendment 6. We need to move forward on the process to make sure it is completed so there is no ambiguity.

Motion 31 carried unanimously.

Ms. Vojkovich moved and Mr. Crabbe seconded Motion 32 that whenever NMFS takes up the issue of cost recovery for the Trawl Rationalization Program, a great degree of transparency is employed. That transparency should include relevant information on the Federal and State costs of current management in as much detail as possible (e.g., sectors, observers, rulemaking, enforcement, etc) as well as expected costs and cost savings as this program comes on line. Cost recovery should explore efficiencies, technologies, new approaches, and minimal government involvement wherever appropriate.

Ms. Vojkovich recounted that NMFS has stated they need to work on cost recovery for the trawl rationalization and sablefish tier programs, but that progress has yet to be made on the latter item. She noted that the issues brought up in public comment, such as knowing how much is being spent, how much is anticipated to be spent, how costs might be minimized, and how much privatization may be employed, should be part of the consideration and the information that is shared through the Council process. She wants to make sure those kinds of things get priority in the process or approach that NMFS designs.

In response to a question from Mr. Lockhart about what was intended by the last sentence of the motion, Ms. Vojkovich said she is not looking to proscribe a report, but to ensure that some considerations be laid out and discussed during design of the cost recovery program.

Ms. Culver stated her support for the motion and moved to amend Motion 32 (amendment 1) such that the assessment of the recovery of the costs would be done on a sector-specific basis, and that the costs identified would be sector-specific. Mr. Myer seconded the motion.

Ms. Culver noted the Council's previous discussion of this issue during the Amendment 20 deliberations. Her understanding is that within the Magnuson-Stevens Act, fees can be up to 3 percent. There has been significant public input and discussion about whether or not it is fair to simply assess the same percentage across all sectors, given that the cost to manage those sectors varies greatly. And, certainly the cost to manage those sectors under the trawl rationalization program will vary greatly. The purpose of her amendment is that sectors are responsible for recovering costs specific to the costs associated with managing their particular sector. In the trailing amendment there would be an alternative in which the various sectors would pay back their respective costs.

Mr. Moore asked how generic costs that flow across all sectors might be treated. Ms. Culver wasn't sure there would be generic costs, but noted that would be described within the analysis for each sector. In response to other questions, Ms. Culver said that the sectors being referenced are the three trawl sectors of the fleet and that the shoreside fishery would be treated as one sector (not split into whiting and nonwhiting).

Amendment 1 to Motion 32 carried. Ms. Vojkovich voted no.

In response to questions, Ms. Vojkovich indicated this would be a trailing amendment, but there would be no time frame direction; she is just trying to provide some guidance at this time, not to get into the details of fee structures, etc.

Mr. Lockhart indicated that NMFS would do the cost recovery analysis and that this motion would allow alternatives of no cost recovery, cost recovery for the trawl rationalization program as a whole, and cost recovery for each individual sector. In a discussion between Mr. Moore and Mr. Lockhart, it was indicated that NMFS was looking for a statement from the Council that cost recovery should move forward as a high priority.

Ms. Culver moved Amendment 2 to Motion 32 to keep the cost recovery trailing amendment on a schedule to target implementation in 2012. Mr. Moore seconded the amendment. Amendment 2 to Motion 32 carried unanimously.

Motion 32 carried unanimously as amended.

Ms. Lowman moved Motion 33 to adopt the following:

I move that with respect to Risk Pools we reaffirm that it is the Council intent that control limits should not constrain the formation of risk pools to help the fishermen deal with overfished species constraints, so long as the pools do not undermine the effectiveness of the accumulation limits.

A work group should be established that includes a limited number of industry representatives (for example 2-3), NOAA GC [General Counsel] enforcement and litigation, NMFS Enforcement, and other members with relevant expertise.

In assessing whether risk pool arrangements could result in a violation of the control rules, the work group should examine what would be potentially permissible and impermissible restrictions on risk pool members' operations--

Included but not limited to the elements to be assessed are:

- (1) Duration of QP commitment*
- (2) Duration and terms for termination of membership*
- (3) Restrictions on time and area of fishing activity*
- (4) Gear restrictions*
- (5) Delivery terms*

Council staff will work with the work group to bring back a preliminary list of permissible and impermissible elements of a risk pool agreement and the rationale for assigning an element as permissible or impermissible for Council consideration and direction.

The work group will also review the component of the control rule relating to financial institutions exemptions. Specifically the work group should examine definitions for qualifying financial institutions and identify permissible and impermissible lending practices, and provide rationale for Council consideration and direction.

Mr. Wolford seconded the motion.

Ms. Lowman spoke to ongoing work and the need for guidance to NMFS on risk pools when NMFS reviews specific cases. Ms. Culver asked about the definition of risk pools. Ms. Lowman stated there are a number of different models for risk pools and that this motion deals with guidance on the kind of elements and contractual arrangements that might be within control rules, but not be too proscriptive because there are a variety of risk pool models that can be used. The discussions of the work group may not lead to guidelines, but could provide a greater comfort level about what is likely within the control rule.

Mr. Lockhart expressed concern about setting up an expectation about a specific set of rules that would be followed to stay within control rules. He was wondering if it might be more fruitful to those developing a risk pool to submit an outline of what they are trying to do and talk through these issues in March and April. Then the need for a task force could be reconsidered at that time. Ms. Vojkovich suggested this approach might also be a way to take care of the safe harbor issue for financial entities.

Mr. Myer expressed concern that too much was being rolled into the motion and that this may need quick action to cover the risk pool situation.

Mr. Wolford thought the critical paragraph was that the "Council staff will work with the work group." The product he is looking for is to have information brought back to the Council so we can look at various organizational structures, regardless of what they are called, to look at the

types of attributes they have or might have and then make the Council's intention more clear to NMFS regarding what the Council thinks should or should not trigger a control rule issue. This is why the assessment is looked for, and the rationale.

Mr. Steve Williams indicated that until this point it appeared that risk pools created control rule problems that needed to be addressed, but that now it appeared this might not be the case. Ms. Lowman's motion is trying to come up with a template, and without it he was concerned that in the future an interpretation could change, which would put all these things in limbo.

Ms. Culver suggested NMFS sponsor some specific workshops to provide an opportunity for people to discuss these things with them. Risk pools and co-ops are already forming based on the advice and guidance NMFS has put out. She noted that risk pools for constraining overfished species need to be addressed sooner rather than later. It seems like we would want to set up a process by which there would be review of these agreements so NMFS can make a determination of whether a control problem exists. At the same time, the Council could discuss their response in that situation and whether the response is different for risk pools or co-ops. Would NMFS be willing to have in place a process to review these agreements such that there would then be a determination of what is control and what is not?

Mr. Lockhart said they did not have time to do workshops, but offered to provide notice to everyone about an opportunity to come and talk with them about risk pools. He noted that for the risk pool issue what mattered is not only the initial starting conditions but also the on-the-ground effects. Something that is initially alright might become problematic several years down the line.

Mr. Moore expressed concern about Mr. Lockhart's last statement. Some assurance needs to be provided that what they are doing does not suddenly run afoul of antitrust or control rules. Mr. Lockhart said that the issue is difficult. From what they have heard from everyone that has come to talk to them, on its face, it sounds fine under the current regulations. But these are things that would always have to be readdressed as they receive more information.

In response to a question from Dr. McIsaac, Ms. Lowman indicated that there is no intent in this motion for a trailing amendment. There is not enough knowledge at this time as to whether a trailing amendment is needed.

Ms. Culver moved as a substitute motion (Motion 34) to move ahead with a trailing amendment to address safe harbors for risk pools that is consistent with the description that is in Agenda Item H.5.a, Attachment 1, page 7, specific to the language addressing risk pools. The scope of alternatives that would be analyzed in that amendment would be as described in Attachment 1, and would include alternatives surrounding the definition of risk pools, the required elements of a risk pool plan, whether or not there would be a mandatory review, and a control determination by NMFS. And further, alternatives for a Council response, alternatives relative to whether or not we would have a safe harbor in those situations for which the risk pool was deemed to be resulting in excessive control of QS or QP. It would also include that a formal workgroup with the appropriate staff available from the region, including GC and enforcement staff, would have scheduled meetings to talk with industry members who are interested and who are forming risk

pools relative to what types of the elements of their plan may or not be acceptable relative to control, and that those discussions occur and that feedback can be provided to the Council through the trailing amendment process in our discussions about what the Council response should be. Mr. Myer seconded the motion.

Ms. Culver spoke to the need for this trailing amendment to be on the schedule so we have that tool available to us and can react should the need arise. Additionally, she noted that for overfished species, it may be that the industry will need to have agreements that might be considered excessive control, therefore there is a need for more than just guidance on what is and is not control, but also a procedure for creating a safe harbor.

Motion 34 carried unanimously.

[Council break from 11:45 a.m. to 1 p.m.]

Mr. Crabbe moved and Ms. Vojkovich seconded Motion 35 that the staff analyze the following alternatives for determination and clarification of scenarios that would allow community fishing associations (CFAs) to hold quota shares (QS) in excess of control caps.

- (1) Alternative 1: Status quo – community-based entities may form as long as they conform with existing accumulation limits*
- (2) Alternative 2: CFAs may acquire QS in an amount:*
 - a. 1.5 times the accumulation limit*
 - b. 2 times the accumulation limit*
 - c. no specific cap, rather consider the size of the CFA*

Examine the pros and cons of specific requirements of a CFA, including but not limited to:

- obtaining local governmental approval*
- meeting organizational and control requirements*
- adopting a community sustainability plan*
- obtaining required approval from NMFS*
- submitting required reports to NMFS and PFMC demonstrating compliance with program goals and community development plan*

As part of this analysis, direct staff to draw on Chapter 4 of the Final EIS, analyzing the effect of the higher accumulation limits which take into account:

The subject community's historical participation in and dependence upon the trawl groundfish fishery, and the potential for a CFA to promote the subject community's sustained participation in the groundfish fishery post-rationalization, i.e.:

- the ability to support full-time captain and crew*
- the ability to support necessary infrastructure, such as processing capacity, port facilities, etc.*
- the potential to lose or gain QS based on market forces alone*
- the ability to use community-based quota to attract quota and landings*

For each alternative, all other requirements for trawl IQ participation remain in effect.

Mr. Crabbe reviewed the motion and noted that several times the importance of communities has been brought to the Council's attention, specifically in the Morro Bay area; also, the amount of QS available, the amount of infrastructure, and the impacts that would occur if that QS were to leave. This alternative would potentially provide opportunities for communities to anchor QS and maintain infrastructure. In situations where QS and infrastructure leave and oceanfront spaces are taken for other uses, it's hard to get it to come back. That's why we need to look at this now. Doing this down the road won't work when it comes to replacing infrastructure. The other issue that may be addressed is providing for new entrants. It is not clear that these are needed yet, but it is also not clear that they are not needed.

Ms. Culver moved to amend the motion (Amendment 1 to Motion 35) to specifically say the Council would move forward with a trailing amendment process to address CFAs and include the definition of a CFA. Mr. Myer seconded the amendment.

Ms. Culver stated that she thought it was implied in the main motion, but that it should be explicitly stated that we would be moving forward with a trailing action. There was a discussion about reviewing previous work and deliberations done on CFAs at the March 2009 Council meeting and it was agreed that could be a starting point for staff to use in looking at what to consider.

Amendment 1 to Motion 35 carried. Mr. Moore and Mr. Steve Williams voted no. Motion 35 carried as amended. Mr. Moore and Mr. Steve Williams voted no.

Ms. Culver moved and Mr. Myer seconded Motion 36 that the Council:

Move forward with a trailing amendment to address severability of the mothership catcher vessel (MSCV) endorsement and catch history to be effective in 2012, and analyze an alternative that includes the following:

- a. Allow the MSCV endorsement to be severed from the permit together with the catch history (i.e., the endorsement and catch history stay together).
- b. Allow the severed endorsement and catch history to be transferred to any limited entry trawl permit.
- c. The endorsement and catch history would be maintained separately on the permit (i.e., stacked, but not merged or combined with any other endorsement or catch history on the permit).
- d. Subdivision of the catch history would not be allowed.

Ms. Culver spoke to the motion stating that this issue had been part of the Amendment 20 packages and was analyzed as part of that EIS. She noted that there would be 37 permits receiving mothership catch history. About ten to twelve of those will receive relatively small amounts of catch history. Many of those receiving smaller allocations are participants in the shoreside trawl fishery with little interest or ability to participate in the at-sea mothership sector. This would allow them to transfer that history to others in the mothership sector and, by keeping

it as a discrete unit that would be stacked, that would allow for multiple transfers and maintain 37 discrete units that might be available to participate in multiple co-ops (if multiple co-ops form). This also prevents permanent reduction in the size of the fleet and number of co-op members. Mr. Myer spoke to the benefits obtained by the flexibility provided by maintaining the endorsements' separability.

There was a discussion between Mr. Myer, Ms. Culver and Mr. James Mize about the effect of the QS trading moratorium on transferability of the current MSCV endorsed permits and endorsements. That moratorium would not affect the transfer of MSCV endorsements, once separable, unless the Council included it as part of the policy direction.

Motion 36 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 37 to have the Council move forward with developing options for year three of the trawl rationalization program distribution of adaptive management pounds within a trailing amendment scheduled to be effective by January 1, 2013. The range of options should be status quo, automatic pass-through of AMP to the fleet in year three only, and automatic pass-through of AMP to the fleet until another FMP amendment implements a different AMP distribution process.

Mr. Moore moved and Ms. Culver seconded to amend the motion (Amendment 1, to Motion 37) such that where the word "amendment" appears in the first sentence and the second sentence, that it be changed to "action." Amendment 1 to Motion 37 carried unanimously.

Mr. Lockhart stated he would support the motion but was concerned that this not result in an ongoing delay. Ms. Lowman expressed concern that the Council not preclude the development of an alternative AMP QP distribution prior to the extension periods covered in the motion.

Motion 37 as amended carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 38 that lingcod be allocated into the north and south geographic areas on January 1, 2012 and that if the catch share plan implementation is delayed for the first few days in early January, then the trawl fishery should be closed for those few days.

Mr. Moore expressed concern about the delay at the start of the year lasting longer and the potential that the trawl fishery could be closed while other fisheries are open for some extended period of time due to a delay in the regulations. Mr. Moore moved and Ms. Vojkovich seconded Amendment 1 to Motion 38 to say "the authority to close the fishery be limited to two weeks."

Amendment 1 to Motion 38 carried. Mr. Lockhart abstained from the amendment. Motion 38 carried as amended. Mr. Lockhart voted no.

With respect to the safe harbors issue for financial institutions, Ms. Vojkovich stated her intent and hope that NMFS takes into consideration those comments from advisory committees to beef up that part of the rule or determine whether that was still an issue. Mr. Lockhart said NMFS

will take into account any advisory body comments, look into the matter more, and come back to the Council with any additional items. Ms. Lowman suggested that they should also look at what kinds of loan practices would be permissible and would cause problems with the control rule, and further that they would reach out to the financial institution community in gathering that information.

Ms. Vojkovich expressed concerns about observer cost and other costs associated with the program which had come up during these discussions. Small vessels may have a hard time continuing in the fishery because of these costs. Mr. Lockhart concurred.

[Agenda item done at 2:15 p.m.]

H.6 Consideration of Inseason Adjustments - Part II, if Necessary

H.6.a Agenda Item Overview (11/08/10; 4:26 p.m.)

Ms. Ames provided the agenda item overview.

H.6.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Rob Jones presented Agenda Item H.6.b, Supplemental GMT Report, Supplemental GMT Report 2, and Supplemental GMT Report 3. Mr. Ancona presented Agenda Item H.6.b, Supplemental GAP Report.

H.6.c Public Comment

Mr. Daniel Platt, STMA, Fort Bragg, CA

Mr. Gerry Richter, fixed gear fishermen, Santa Barbara, CA

Mr. Mike Hyde, American Seafoods, Seattle, WA

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

H.6.d Council Action: Adopt Final Recommendations for Adjustments to 2010 and 2011 Groundfish Fisheries (11/09/10; 7:51 a.m.)

Ms. Michele Culver, Mr. Rod Moore, and Mr. Frank Lockhart discussed the appropriate procedures for the trawl fishery, given the potential delay in the Amendment 20 regulations.

Ms. Marija Vojkovich asked Mr. Lockhart about the California recreational regulation changes outlined in the GMT report, which noted that some measures were not routine. Mr. Lockhart said the Council can make recommendations and the agency will then determine the actions that are consistent with the FMP and regulations, including the agency's authority to implement using emergency authority. The agency will also review the supporting analysis to determine its sufficiency.

Mr. Moore moved and Ms. Culver seconded Motion 26, referencing Agenda Item H.6.b, Supplemental GMT Report 2 under the GMT recommendations section on page 32, for the Council to adopt the following inseason actions:

1. *Recommend to the National Marine Fisheries Service (NMFS) that the Council be allowed flexibility to adjust the off-the-top deductions in April 2011.*
2. *Retain flexibility for adjusting the two-year trawl and non-trawl allocations for these species in 2011, as needed, with exception of petrale sole where the non-trawl allocation will remain at 35 mt.*
3. *Consider implementing the non-routine inseason action regulations recommended by the states to allow the recreational fisheries to begin 2011 as proposed in the 2011-12 draft Environmental Impact Statement (DEIS).*
4. *Implement the 2011 trawl trip limits and Rockfish Conservation Area boundaries (page 12, table 10), if the trawl rationalization program is delayed.*
5. *Request NMFS to implement the landing allowances for non-IFQ species and Pacific whiting coastwide, as described in Tables 1b (North and South) in the November 3, 2010 proposed rule (75 FR 67810).*
6. *Request NMFS lower sablefish harvest specifications and associated tier limits (Table 12 and Table 13), per the analysis in the DEIS, as part of the emergency rule package proposed by NMFS.*
7. *For the limited entry fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement cumulative trip limits of 2,000 lbs/week for periods 1 – 6 not to exceed 7,000 lbs/2 months for periods 1-3 and 8,000 lbs/2 months for periods 4-6.*
8. *For the open access fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement trip limits for periods 1-3 of 300 lbs/day or one landing per week not to exceed 950 lbs, and a cumulative bimonthly limit of 1,900 lbs/2 months. For periods 4-6 of 300 lbs/day or one landing per week not to exceed 1,200 lbs and a cumulative bimonthly limit of 2,250 lbs.*
9. *Adopt trip limits for the limited entry fixed gear south of 36° N. latitude of 2,100 lbs per week; which is option 2 on page 23.*
10. *Adopt trip limits for the open access fixed gear south of 36° N. latitude of 300 lbs per day, 1,200 lbs per week, not to exceed 2,400 lbs per two months, which is option 3 on page 24.*
11. *Request that information on longnose skate mortality from the West Coast Groundfish Observer program be provided on a timely basis to facilitate the potential need for inseason management.*
12. *Adopt the trawl and non-trawl allocations in Supplemental GMT Report 3. For yelloweye rockfish, use the trawl and non-trawl split found in Supplemental GMT Report 3, except trawl portion will be 0.3 mt.*

Mr. Moore said the motion captures Council discussions and GMT, GAP, and public recommendations.

Ms. Culver moved to amend the motion (Amendment 1), relative to the yelloweye split--use the Supplemental GMT Report 2, last page of their report (page 34). Adopt the values displayed in the far right-hand column under Council guidance as the yelloweye amounts to be in place at the beginning of 2011. Allocations would be suspended for 2011 and adjusted following the issuance of the NMFS emergency rule in 2011, as appropriate. Mr. Myer seconded the amendment.

Ms. Culver said the discussion has focused on the emergency rule action needed for overfished species with particular regard to yelloweye rockfish. We are following the yelloweye rockfish specifications from 2010 at the start of 2011; therefore we are managing to an ACL of 14 mt. The fisheries and management measures proposed for 2011 will not achieve the projected impacts described here by April 2011. However, depending on the final ACL for the year, management measures may need to be adjusted further to reduce projected impacts. She is also proposing we suspend the allocation for the balance of the year.

Amendment 1 to Motion 26 carried unanimously.

Ms. Vojkovich moved to amend the motion (Amendment 2), seconded by Mr. Wolford. With regard to item 3, include the routine management measures identified in GMT Report 2 for implementation.

Amendment 2 to Motion 26 carried unanimously.

Motion 26 as amended carried. Mr. Lockhart voted no.

Ms. Vojkovich moved (Motion 27) to ask NMFS to implement the non-routine recreational management measures recommended by the states to start January 1, 2011, as proposed in the 2011-12 EIS, as an emergency rule if the inseason actions are not allowed. Mr. Buzz Brizendine seconded the motion.

Ms. Vojkovich said there is confusion regarding the California recreational management measures and whether they are considered routine inseason actions. Some of those measures are necessary and important to have in place January 1. The consequence of not implementing those measures is increased public confusion and disruption. The analysis contained in the DEIS indicates there are very little impacts to overfished species. She is only speaking for California and why action is necessary.

Mr. Lockhart said there are complex issues here and he will be voting no since it deals with an emergency rule.

Motion 27 carried. Mr. Lockhart voted no.

The Council then went to Agenda Item C.1.c. (8:38 a.m., 11/09/10)

I. Coastal Pelagic Species Management

I.1 National Marine Fisheries Service Report on CPS

I.1.a Regulatory Activities (11/07/10; 8 a.m.)

Mr. Mark Helvey presented Agenda Item I.1.a, Supplemental NMFS PowerPoint. This presentation summarized a workshop on catch shares. The NOAA-sponsored workshop took place in June 2010 and included representation from commercial and recreational fishing interests, scientists, and conservation interests. The workshop was informational in nature.

I.1.b Fisheries Science Center Activities (8:18 a.m.)

Dr. Gary Sakagawa presented Agenda Item I.1.b, Supplemental SWFSC PowerPoint (Sakagawa) and Dr. Russ Vetter presented Agenda Item I.1.b, Supplemental SWFSC PowerPoint (Vetter).

I.1.c Reports and Comments of Advisory Bodies and Management Entities

None.

I.1.d Public Comment

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

I.3.e Council Discussion on NMFS Report on CPS

Mr. Dave Ortmann had concerns on how the catch shares programs might develop and potential funding and allocation decisions along the way.

Mr. Helvey responded that, as was noted in the report, this was just an information sharing workshop and that was all NMFS was going to do at this point. If the participants saw this as a tool for future management, then that would be up to the participants. A lot of discussion in a theoretical sense was on allocation.

Ms. Marci Yaremko, CDFG, complimented NMFS for sponsoring the workshop. This was a useful opportunity for the players to get together and talk about the real work going on, as well as new data sources for the methodology. The Council has continued to emphasize the need for better and more data. Mr. Steve Williams concurred with these comments and hopes to continue such collaboration.

I.2 Pacific Sardine Stock Assessment and Coastal Pelagic Species (CPS) Management Measures for 2011

I.2.a Agenda Overview (9:15 a.m)

Mr. Griffin provided the agenda item overview. Ms. Marci Yaremko asked for clarification on the language in Agenda Item I.2.c, Supplemental CPSMT Report 2, and Agenda Item I.2.c, Supplemental CPSMT Report 1 Addendum. She wanted to know if exceeding California's state landings cap would trigger an automatic consideration of whether to move market squid from monitored to active management status, or whether the language in the CPSMT reports was meant to imply a more generic consideration by the CPSMT. The CPSMT Chairman, Mr. Greg Krutzikowsky, stated that the language was intended to mean an informal consideration by the CPSMT, but that consideration of this issue by the Council would be a different matter, and would follow the CPS FMP point of concern framework.

I.2.b Survey and Assessment Report

Mr. Tom Jagielo presented Agenda Item I.2.b, Supplemental Aerial Sardine PowerPoint (Jagielo). Dr. Kevin Hill presented Agenda Item I.2.b, Supplemental NMFS SWFSC PowerPoint (Hill).

I.2.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Martin Dorn presented Agenda Item I.2.c, Supplemental SSC Report.

Dr. Greg Krutzikowsky presented Agenda Item I.2.c, Supplemental CPSMT Report 2. He noted that the following were available in the Council's briefing materials: Agenda Item I.2.c, CPSMT Report 1, and Agenda Item I.2.c, Supplemental CPSMT Report 1 Addendum.

Mr. Mike Okoniewski presented Agenda Item I.2.c, Supplemental CPSAS Report.

I.2.d Public Comment (11/07/10; 1:05 p.m.)

Mr. Ben Enticknap, Oceana, Portland, OR

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

Mr. Ryan Kapp, sardine fisherman, Bellingham, WA

Ms. Pam Lyons Groman, National Coalition for Marine Conservation, Leesburg, VA

Dr. Doyle Hanan, fisheries consultant, La Jolla, CA

I.2.e Council Action: Approve the Pacific Sardine Assessment and Final 2011 Management Measures for CPS

Ms. Yaremko moved Motion 17 to adopt the 2010 Pacific Sardine Stock Assessment for 2011 management as shown in Agenda Item I.2.b, Attachment 2. Mr. Crabbe seconded the motion.

Ms. Yaremko said it was another good effort by the Stock Assessment team (STAT). This was an update year for the assessment, which limited the analysis and review of certain items. She does have some concerns of whether or not the assessment is capturing the entire biomass off the west coast, given the expansion of sardine stocks into Canadian waters and also a corresponding lack of independent data streams. The inclusion of the aerial survey data is very good. We again clearly saw that the daily egg production model alone would probably not have captured what was going on coast-wide. She also noted that the aerial survey program has made big strides and suggests that in the future, fewer replicates would maximize fiscal and research resources. Regarding the use of point sets, she again fully supports including the aerial survey and understands why the California survey data was not used in the assessment. However, she is concerned that the use of the point sets might have strayed from its original purpose. To apply the biological data to the overflight data is making a leap, and some assumptions are made. She cannot quite understand why the data for fish that were taken in southern California point sets that were not the right size were disallowed for use in the assessment. In the end it is trivial and doesn't make much difference for the output on the biomass decision. She feels that there was a major improvement over the prior year's assessment.

Motion 17 carried unanimously.

Ms. Yaremko moved and Mr. Brizendine seconded Motion 18 to adopt the CPSMT recommendations for Pacific sardine as shown in Agenda Item I.2.c, Supplemental CPSMT Report 2. This includes an OFL of 92,727 mt and P* (probability of overfishing) value of 0.4, equating to an ABC of 84,681 mt.

Ms. Yaremko spoke to the motion. Regarding the P* issue, she noted that for assessed stocks we typically adopt a P* value of 0.45. A lot of time and energy and research efforts are spent on sardine and we have been assessing the stock for decades. However, there are still fundamentals that raise some concern with the P* value of .45 which is our standard for assessed stocks. We don't have control over conditions in Mexico or Canada in how they choose to regulate their fisheries, and we cannot assess the fisheries off their coasts. So we have to make assumptions that we are fishing somewhat on the same stock. There are some increases in the harvests of the stock from the other nations and the rate is increasing in Canada. There is poor recruitment and poor ability to estimate recruitment. However, overall, in thinking about the comments about temperature and the harvest controls we are using, the result is a harvest guideline (HG) well below the ABC value. The fishery has attained the directed fishing quotas time and time again under our management process and the allocation is fully utilized, with no difficulty finding the fish.

Motion 18 carried unanimously.

Ms. Yaremko moved and Mr. Crabbe seconded Motion 19 to adopt a Pacific Sardine ACL of 84,681 mt (equal to the ABC).

Motion 19 carried unanimously.

Ms. Yaremko moved and Mr. Brizendine seconded Motion 20 to adopt an HG for Pacific Sardine as detailed in Table 2 of Agenda Item I.2.b, Supplemental CPSMT Report 2. This includes a 50,526 mt HG, a 4,200 mt potential EFP set-aside (with any unused EFP allocation to be added to the period 3 directed fishery), 1,000 mt per period as incidental set-asides, and a 2,000 mt management uncertainty buffer in the third quarter.

Motion 20 carried unanimously.

Mr. Steve Williams moved and Mr. Moore seconded Motion 21 to adopt the following management recommendations: from Agenda Item I.2.c, Supplemental CPSMT Report 2, include all of Table 3 OFLs, ABCs, and ACLs for monitored stocks; include the addition of a 1,500 mt ACT for the northern subpopulation of northern anchovy, and a calendar year regulatory season for finfish and April 1 to March 31 of the following year for market squid.

Mr. Steve Williams said we had a thorough discussion with the CPSMT members about the increase in the northern anchovy allowable harvest (to 1,500 mt). This increase over previous years allows for a slight expansion of fisheries while keeping an appropriate cap on it. If additional biological information comes to light, that could be considered and the Council would maintain control.

Mr. Helvey asked if the ACT would be a soft cap, like an HG, that will trigger a review once the ACT is exceeded. Mr. Steve Williams said yes, if we were to exceed the ACT it would not shut down the fishery, but would trigger a review and discussion by the states to guide any needed current action, as well as the next management cycle, with input from the CPSMT and Council.

To make things clear, Ms. Culver moved Amendment 1 to Motion 21 to specify that upon achieving the 1,500 mt ACT, it would trigger consultation between WDFW and ODFW, and during that consultation, the states would discuss and reach agreement as to what state actions are needed at that time. Mr. Cedergreen seconded the amendment to Motion 21.

Ms. Culver stated that, should the ACT exceeded, the states could talk about it and could take independent management measures to slow that catch. Mr. Steve Williams agreed that if there was time to do something they could, however, he thought it most likely that it would guide the next annual management cycle.

Ms. Yaremko asked about the ACT definition and whether this is only specific to this monitored stock, and whether the Council is free to prescribe definitions of ACT for other monitored stocks. Mr. Helvey and Mr. Williams clarified that this is only for the northern subpopulation of northern anchovy stock. Mr. Griffin asked whether the amendment to the motion (on a consultation between Oregon and Washington) would be an informal situation. Ms. Culver said her thoughts were that each of the states would monitor and scheduled informal conference calls to review the fisheries as needed.

Amendment to Motion 21 carried unanimously.

Ms. Culver said she was supportive of the main motion. She spoke in favor of having an ACT for northern anchovy. In looking at the table in CPSMT Report 1, page 10, showing historical landings, she noted that the highest landings in this fishery were in 2009. She spoke about the traditional baitfish fishery landings in Washington state, mostly by small boats with small capacities. That fishery takes typically just a few hundred metric tons overall. Northern anchovy are important forage fish, and the approach in the motion takes appropriate precaution.

Mr. Cedergreen said anchovy are major forage fish in the northwest for salmon, albacore, rockfish, and small catch used for local bait. There is not a stock assessment for northern anchovy. The 1,500 mt is precautionary, but five or six times the average catch other than the spike in 2009. On the other hand, 9,750 mt is a far worse option. He is concerned that increasing the allowable catch may lead to a larger directed fishery, but reluctantly supports the motion.

Ms. Yaremko likewise supports the motion and expressed appreciation to the CPSMT for providing the history and background generating the values. On the ACT issue, she supports the discussion taking place, and is glad to see we are applying some specificity as to what actions will result from establishing an ACT.

Motion 21 as amended carried unanimously.

Mr. Tim Roth referenced the public comments and the CPSMT's endorsements of other ecological monitoring efforts. He said that the ecosystem fishery management plan (EFMP) is probably the appropriate place to pull all of this together. As we continue to scope the EFMP, we should ask the other management teams to work with the EPDT as to how their fisheries have

linkages (food-web, predator/prey, forage fish, seabirds, and marine mammals). He suggests continuing to support ecosystem dialogue.

Ms. Culver moved and Mr. Myer seconded Motion 22 that the Council encourage NMFS to continue funding comprehensive coastwide annual CPS research and encourage the Council, NMFS, and the State Department to continue working to achieve timely receipt of biological research data from Mexico. Also, that the SSC ecosystem subcommittee should provide scientific advice for CPS fisheries with regard to ecosystem structure and other information that could be used by the EPDT.

Mr. Helvey asked what the outcome of Ms. Culver's motion would be. Perhaps a letter to the Department of State? How would that recommendation be conveyed? Ms. Culver said that if a letter is needed or helpful, that would be good to know, but she would think that with this guidance, given that NMFS is here and we have a Department of State seat on the Council, she thought that it did not necessarily need to be in a form of a letter.

Mr. Helvey said that would be up to the Council, it could be helpful.

Dr. McIsaac said that with regard to a letter or other efforts, the intent of the motion could be made at CCC meetings, or at this table when the Department of State is here. He asked whether the maker of the motion meant to include only Mexico when she referred to international cooperation, or also to Canada. Ms. Culver replied that she only said Mexico.

Motion 22 carried unanimously.

Ms. Yaremko said that she felt it was very important to give appropriate review to the recent publication and the issue of the temperature component of the harvest control rule. It has significant impact on the HG, and time should be given for consideration of that paper. She asked whether a motion was needed and wasn't sure which would be the appropriate body to conduct a review (e.g., the SSC or a Stock Assessment Review (STAR) panel), but did think it was important to research the issue.

Dr. McIsaac said that can be done and fit into the SSC's agenda. If there are particular points that would be important for the Council to hear back on, that would be helpful. He noted that a general review has been done when it was published. Ms. Yaremko said she could not say specifics at this stage, for example if we need to revamp the formula or look at alternatives. However, a review in time for the next assessment might be timely. The Vice Chairs and Council concurred.

Ms. Yaremko also supported, as guidance only, the SSC request for the CPSMT to move forward with additional analysis of the squid F_{msy} proxy values for escapement (page 3 of the SSC statement).

I.3 Terms of Reference for Stock Assessment and Methodology Review Panels

I.3.a Agenda Overview (11/07/10; 2:57 p.m.)

Mr. Griffin provided the agenda item overview. Two terms of reference (TOR) are to be considered. One is on the STAR process, and one on a methodology review process. There are three methodologies teed up for consideration.

I.3.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Greg Krutzikowsky provided Agenda Item I.3.b, Supplemental CPSMT Report. Dr. Martin Dorn presented Agenda Item I.3.b, Supplemental SSC Report. Mr. Mike Okoniewski presented Agenda Item I.3.b, Supplemental CPSAS Report.

I.3.c Public Comment

Dr. Doyle Hanan, fisheries consultant, La Jolla, CA
Mr. Ryan Kapp, sardine fisherman, Bellingham, WA
Mr. Jerry Thon, NW Sardine Survey, LLC, Bellingham, WA
Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

I.3.d Council Action: Approve the Final Terms of Reference for Stock Assessment and Methodology Review Panels

Mr. Moore moved and Ms. Dorothy Lowman seconded Motion 23 to adopt the Draft Terms of Reference for a Coastal Pelagic Species Stock Assessment Review Process as shown in Agenda Item I.3.a, Attachment 1; and the Draft Terms of Reference for Coastal Pelagic Species Stock Assessment Methodology Review as shown in Agenda Item I.3.a, Attachment 2. This includes the changes outlined in Agenda Item I.3.b, Supplemental SSC Report.

Motion 23 carried unanimously.

Mr. Moore moved and Ms. Dorothy Lowman seconded Motion 24 that the Council approve a methodology review of the three proposals by the SSC: 1) the use of satellite imagery during aerial photographic surveys, 2) the use of acoustic and (associated trawl) surveys for abundance estimation, and 3) calibration of aerial photographic surveys using lidar and acoustics.

Mr. Moore said these were recommended by the SSC.

Ms. Yaremko moved and Mr. Brizendine seconded Amendment 1 to Motion 24 to include a placeholder to review the trawl survey data for Pacific sardine in Canadian waters.

Dr. McIsaac said there could be a placeholder for this opportunity, but not an expectation that the SSC would look at the raw data and, in terms of that, develop a methodology.

Mr. Griffin noted that having a placeholder for review of the Canadian survey information would be logistically challenging. Mr. Moore asked if there was a deadline for submitting proposals for the methodology review and Mr. Griffin said that it was two weeks ago.

Ms. Culver said this was the opportunity for SSC review and this was the only time the Council would be taking the action to determine what stocks/survey methods were to be used by these review panels. She shares Ms. Yaremkos concern on principle, and is not entirely sure what transpired in this case. She asked how we learned about the Canadian trawl survey data. She asked if Mr. Griffin could explain to us about how this discussion would work with the SSC. Mr. Griffin explained that the process to decide which methodologies would be considered is somewhat informal, and that three methodologies to be considered to represent a very full load. Mr. Helvey said that the Canadian swept area trawl survey was presented at a research workshop earlier in the year, so members of the Southwest Fisheries Science Center became aware of it then, if they were not already.

Ms. Yaremko withdrew her amendment.

Motion 24 carried unanimously.

I.4 CPS Essential Fish Habitat Five-Year Review

I.4.a Agenda Overview

Dr. McIsaac provided the agenda item overview.

I.4.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Dorn provided Agenda Item I.4.b, Supplemental SSC Report. Mr. Griffin read Agenda Item I.4.b, Supplemental HC Report. Mr. Greg Krutzikowsky provided Agenda Item I.4.b, Supplemental CPSMT Report 2. Mr. Mike Oknowiewski provided Agenda Item I.4.b, Supplemental CPSAS Report.

I.4.c Public Comment

None.

I.4.d Council Action: Approve Essential Fish Habitat Review

Mr. Steve Williams asked about the workload and bringing this all back together at the same time. Mr. Griffin said it would be a substantial workload, but no matter when, it all has to be done. There would be a benefit to synchronizing the essential fish habitat review of krill and the other CPS species.

Ms. Culver moved and Mr. Cedergreen seconded Motion 25 to adopt, for the CPS Essential Fish Habitat Five-Year Review, the recommendations of the CPSMT as described in Agenda Item I.4.b, Supplemental CPSMT Report 2.

Motion 25 carried unanimously.

J. Highly Migratory Species Management

J.1 National Marine Fisheries Service Report on Highly Migratory Species

J.1.a Regulatory Activities (11/09/10; 2:20 p.m.)

Mr. Mark Helvey noted that there were no regulatory updates in the briefing book. He did note a couple of issues concerning vessel monitoring system requirements that are ongoing and will require some action in the future.

J.1.b Fisheries Science Center Activities

Dr. Russ Vetter presented Agenda Item J.1.b, Supplemental SWFSC PowerPoint (Vetter).

J.1.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Doug Fricke presented Agenda Item J.1.c, Supplemental HMSAS Report.

J.1.d Public Comment

Mr. Doug Fricke, Washington Trollers Assoc., Hoquiam, WA
Mr. Chip Bissell, American Albacore Fishing Assoc., Oak View, CA

J.1.e Council Discussion on NMFS Report on Highly Migratory Species

None.

J.2 Changes to Biennial Management Measures Beginning April 2011

J.2.a Agenda Item Overview (11/09/10; 2:48 p.m.)

Dr. Kit Dahl provided the agenda item overview.

J.2.b Reports and Comments of Advisory Bodies and Management Entities

Ms. Culver reviewed Agenda Item J.2.b, Supplemental WDFW Report. Dr. Stephen Stohs provided Agenda Item J.2.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item J.2.b, Supplemental HMSAS Report.

J.2.c Public Comment

Mr. Doug Fricke, WTA, Hoquiam, WA

J.2.d Council Action: Adopt Final Changes to Biennial Management Measures Beginning April 2011

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 39 to adopt Alternative 2, described in Agenda Item J.2.a, Attachment 2, to modify Federal regulations on deep-set longline fishery landing and retention limits for swordfish. In speaking to her motion, Ms. Vojkovich emphasized that this regulatory change is consistent with a proposed regulatory change made by the Western Pacific Fishery Management Council for the longline fishery managed under their Pelagics Fishery Ecosystem Plan. She also noted that Attachment 2 states that the swordfish stock is not subject to overfishing or overfished, a change in protected species interactions is

unlikely, and the current vessels in the fishery are subject to 100 percent observer coverage. Mr. Helvey noted the economic benefits.

Motion 39 carried unanimously.

J.3 Recommendations to Regional Fishery Management Organizations

J.3.a Agenda Item Overview (11/09/10; 3:08 p.m.)

Dr. Dahl provided the agenda item overview.

J.3.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Stohs presented Agenda Item J.3.b, Supplemental HMSMT Report. Mr. Fricke presented Agenda Item J.3.b, Supplemental HMSAS Report.

J.3.c Public Comment

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

J.3.d Council Action: Adopt Recommendations for the U.S. Delegation to the Western and Central Pacific Fisheries Commission Seventh Regular Session

Ms. Vojkovich asked Council staff to put together a letter to the head of the U.S. delegation to the Western and Central Pacific Fisheries Commission (WCPFC) that reflects the recommendations contained in both HMSAS and HMSMT reports. She noted that the HMSAS and HMSMT reports contained opposing recommendations with respect to striped marlin and said the Council recommendation should be consistent with that of the HMSAS, recognizing the upcoming 2011 stock assessment and uncertainties about stock structure. She gave Council staff discretion in drafting the recommendations in a way that appropriately reflected the context of west coast fisheries.

Vice Chair Wolford said the Council concurred with Ms. Vojkovich's recommendation, and a motion is unnecessary.

Dr. McIsaac discussed the third major recommendation in the HMSAS report, to send a letter to Departments of State and Commerce relative to an Administration bill for legislation related to the WCPFC and implementing the Inter-American Tropical Tuna Commission Antigua Convention. Mr. Gordy Williams also noted that the legislation affects compensation of members of the independent scientific review committee of the Pacific Salmon Commission. Mr. McIsaac recommended waiting on sending any such letter until the new Congress is in session. Mr. Moore disagreed and recommended that such communication should occur immediately so that it could be considered in the lame duck session of the current Congress, scheduled to begin on November 15.

Mr. Moore moved and Mr. Cedergreen seconded Motion 40 to direct the Council Executive Director to communicate with the Secretary of State and Secretary of Commerce urging them, on behalf of the Administration, to submit a clean bill which would correct the implementing

legislation for the U.S.-Canada Agreement on Pacific Whiting and the WCPFC, as well as implementing legislation for the Antigua Convention. Motion 40 carried unanimously.

K. Administrative Matters

K.1 Approval of Council Meeting Minutes

K.1.a Council Member Review and Comments (11/09/10; 4:08 p.m.)

Chair Cedergreen opened the Council review of minutes.

K.1.b Council Action: Approve November 2009 Council Meeting Minutes

Mr. Moore moved and Mr. Dave Ortmann seconded a motion (Motion 41) to adopt the November 2009 Council minutes as provided in Agenda Item K.1.a, Draft November 2009 Minutes. Motion 41 carried unanimously.

K.2 Fiscal Matters

K.2.a Budget Committee Report (11/09/10; 4:09 p.m.)

Dr. John Coon read Agenda Item K.2.a, Supplemental Budget Committee Report.

K.2.b Reports and Comments of Advisory Bodies and Management Entities

None.

K.2.c Public Comment

None.

K.2.d Council Action: Consider Budget Committee Recommendations

Mr. Moore moved and Ms. Culver seconded a motion (Motion 42) to adopt the report of the Budget Committee as shown in Agenda Item K.2.a, Supplemental Budget Committee Report (including the recommendations on page 2). Motion 42 carried unanimously.

K.3 Membership Appointments and Council Operating Procedures (4:17 p.m.)

K.3.a Agenda Item Overview

Dr. Coon provided the agenda item overview.

K.3.b Reports and Comments of Advisory Bodies and Management Entities

None.

K.3.c Public Comment

None.

K.3.d Council Action: Consider Changes to Council Operations and Procedures; and Advisory Body Appointments

Mr. Lockhart moved and Mr. Moore seconded a motion (Motion 43) to appoint Ms. Rosemary Kosaka to the NMFS Southwest Fisheries Science Center position on the GMT replacing Dr. Edward Dick. Motion 43 carried unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 44) to appoint Ms. Carol Henry to the WDFW position on the HMSMT replacing Ms. Lorna Wargo. Motion 44 carried unanimously.

Mr. Lockhart moved and Mr. Brizendine seconded a motion (Motion 45) to appoint Mr. Chuck Farwell to the vacant conservation position on the Highly Migratory Species Advisory Subpanel. Motion 45 carried unanimously.

Mr. Steve Williams moved and Ms. Culver seconded a motion (Motion 46) to appoint Mr. Merrick Burden to the vacant conservation position on the Groundfish Allocation Committee. Motion 46 carried unanimously.

After conferring with Council and advisory body members, Chairman Cedergreen appointed the following persons to the Groundfish Biennial Process Improvement Committee: Mr. Frank Lockhart, Ms. Michele Culver, Mr. Rod Moore, Mr. Dan Wolford, Ms. Gway Kirchner, Dr. Martin Dorn (or SSC designee), Mr. Corey Niles, Ms. Lynn Mattes, Dr. Jason Cope, Mr. Dan Waldeck, Mr. Kevin Duffy, Ms. Sarah Williams, and Ms. Sheila Lynch. Other invited participants are Ms. Joanna Grebel, Dr. Todd Lee, Dr. Jim Hastie, Dr. Patty Burke, and Ms. Shelby Mendez.

The Council discussed the impact of the September 27, 2010 final rule issued by NMFS, which included guidance on the definition of advisory panels and affected eligibility for stipend payments as outlined in Agenda Item K.3.a, Supplemental Attachment 1. Following the actions outlined in Supplemental Attachment 1, Council Chair Cedergreen formally charged, and the Council concurred, that the following Council advisory bodies have been formed, selected, and designated as Magnuson-Stevens Act Section 202(g)(2) advisory panels (which makes them eligible for stipend payments):

Coastal Pelagic Species Advisory Subpanel	Ecosystem Advisory Subpanel
Groundfish Allocation Committee, nonvoting members	Groundfish Advisory Subpanel
Groundfish Essential Fish Habitat Review Committee	Habitat Committee
Highly Migratory Species Advisory Subpanel	Salmon Advisory Subpanel
Coastal Pelagic Species STAR Panels	Groundfish STAR Panels

Consistent with the charge of the Council Chairman, Mr. Wolford moved and Mr. Moore seconded Motion 47 for staff to amend the Council Operating Procedures (COP) and Statement of Organization Practices and Procedures (SOPP) to identify those advisory bodies which are formed, selected, and formally designated as MSA Section 302(g)(2) advisory panels; and further, that the amendments also identify that upon establishment of additional advisory bodies

in the future, the Council will identify those which are established as Section 302(g)(2) advisory panels in the COP. Motion 47 carried unanimously.

Mr. Wolford moved and Ms. Lowman seconded a motion (Motion 48) that the staff review the full content of the September 27, 2010 final rule on Regional Council operations and administrative matters and amend the SOPP to be consistent with the new and revised regulations.

Motion 48 carried unanimously.

K.4 Future Council Meeting Agenda and Workload Planning

K.4.a Agenda Item Overview

Dr. McIsaac provided the agenda item overview by reviewing Supplemental Attachments 3 and 4 and noting the changes from the earlier agenda planning documents. Mr. Steve Williams noted that the halibut bycatch allocation item could be moved later to September.

K.4.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Doug Fricke presented Agenda Item K.4.b, Supplemental HMSAS Report.

K.4.c Public Comment

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

K.4.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

Council members worked with the Council staff and the Executive Director to better plan and clarify agenda items for the coming year, and to address the March 2011 agenda and upcoming workload priorities.

ADJOURN

The 206th meeting of the Pacific Fishery Management Council as adjourned at 5:15 p.m.



Dan Wolford
Council Chairman

September 18, 2012

Date