

MINUTES  
Pacific Fishery Management Council  
**September 7-12, 2008 (195<sup>th</sup> Meeting)**  
Doubletree Hotel Boise - Riverside  
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## **A. Call to Order**

### **A.1 Opening Remarks, Introductions, and Council Member Appointments**

Don Hansen, Chair, called the 195th meeting of the Pacific Fishery Management Council (Council) to order on Monday, September 8, 2008 at 9 a.m. A closed session was held from 8 a.m. to 9 a.m.

Mr. Jerry Mallet introduced Ms. Sharon Kiefer, Assistant Director, Idaho Department of Fish and Game (IDFG). Ms. Kiefer provided a short PowerPoint presentation and shared Idaho fishery management statistics. Mr. Mallet also introduced Mr. Joe Greenley, former Council Executive Director. Mr. Dave Ortmann also praised Mr. Greenley for his contributions to fishery conservation in Idaho.

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

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

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

The following Council member was absent from the entire meeting:

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

### **A.3 Executive Director's Report (09/08/08; 9:15 a.m.)**

Dr. McIsaac provided the Council with an overview of the seven Informational Reports. He also noted the halibut managers workgroup meeting has been changed from 7 p.m. to noon today, and will be in the Aspen Room.

Mr. Anderson noted that he has a concern about the 2008 Pacific halibut fishery (Informational Report 4) which he would like to address with the Council. Ms. Cooney said it could be discussed under the halibut items as a discussion item only. Mr. Anderson said he would make his comments under E.3.b.

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

The Council approved the agenda as shown in Agenda Item A.4., September Council Meeting Agenda, with the change in ancillary meeting for the Halibut Managers Workgroup from 7 p.m. to noon. (Motion 1)

### **B. Open Comment Period**

#### **B.1 Comments on Non-Agenda Items**

##### **B.1.a Public Comment**

Dr. Usha Varanasi, Northwest Fisheries Science Center. Provided a PowerPoint on the West Coast Governors' Agreement on Ocean Health.

Dr. Lisa Wooninck, Monterey Bay National Marine Sanctuary (MBNMS). Reported that a draft response to the August 22, 2008 letter from the City of Monterey to Paul Michel, Superintendent, MBNMS will be coming soon (Supplemental Open Comment 4).

Mr. Jerry Thon, Northwest Sardine Survey, Astoria, Oregon. Provided a PowerPoint on the progress of a test aerial survey for northwest Sardine.

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

Council members asked Mr. Thon about the process of coordinating the aerial survey with that of the Southwest Fishery Science Center and other issues in making the aerial survey into a reliable forecasting tool.

At this time, Mr. Bob Lohn addressed the Council and presented certificates to Mr. Mark Cedergreen and Mr. Rod Moore on their reappointments.

### **C. Administrative Matters**

#### **C.1 Future Council Meeting Agenda and Workload Planning**

##### **C.1.a Agenda Item Overview (09/08/08; 10:35 a.m.)**

Dr. McIsaac provided the agenda item overview—covering the three attachments describing the three-meeting outlook, draft November Council meeting agenda, and trawl rationalization hearing schedule. He also reported on his meeting with staff of the California Department of Fish and Game (CDFG) at their request to discuss coordination issues and a possible strategic planning meeting for Council members

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

None.

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

None.

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

Mr. Anderson asked if the Council would consider date changes for the upcoming hearings on the trawl rationalization issue as he had a problem with the Astoria and Olympia hearings being on the same day. That discussion will be taken up on Friday, along with the discussion on having an off-site long-term planning meeting.

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

##### **C.1.a Agenda Item Overview (09/12/08; 9:54 a.m.)**

Dr. McIsaac presented an overview of the updated meeting planning attachments (Supplemental Attachments 4-8). He noted the addition of the planning for Fishery Management Plan (FMP) amendments for changes in the National Standards (National Environmental Policy Act and annual catch limits) and movement of Highly Migratory Species (HMS) issues from March to April. He also reviewed the change toward six-day Council meetings and the goal of convening meetings on only one weekend rather than hitting parts of two weekends.

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

Dr. Coon read the Habitat Committee (HC) Report. He noted that in the last sentence of the report, the HC meant to refer to the “ecosystem” FMP, not the “essential” FMP.

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

None.

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

Regarding the November Council meeting schedule, Mr. Mallet recommended the Budget Committee (BC) meeting be moved from Saturday to Sunday morning. Ms. Culver recommended moving the Coastal Pelagic Species (CPS) together in one day, moving the final groundfish inseason action to earlier in the week (Wednesday or Thursday), and ensuring some breaks in the trawl rationalization item. Ms. Vojkovich recommended taking the salmon preseason schedule off the agenda and just including it as an informational report. She also recommended front-loading the Groundfish Management Team (GMT) meeting. Mr. Lockhart noted that the Groundfish Allocation Committee (GAC) agenda in January would be dedicated to the intersector allocation amendment, not to open access.

With regard to the HC recommendations for initiating the ecosystem FMP process, Council members agreed that work on that issue should await funding. Dr. McIsaac has been working and will continue to work toward that end.

With regard to the trawl rationalization hearings, the following assignments were completed or revised. Mr. Williams and Ms. Gway Kirchner will attend the Oregon hearings. Mr. Lockhart said due to budget constraints, there might be Southwest Region (SWR) at the meeting instead of Northwest Region (NWR). Ms. Vojkovich said CDFG will have a state representative at their two meetings (either she or Ms. Johanna Grebel). Council staff, Oregon Department of Fish and Wildlife (ODFW), and Ms. Culver agreed the Olympia hearing would stay as scheduled and the Astoria hearing would be moved to October 29. WDFW (Washington Department of Fish and Wildlife) will be at the meeting in Astoria.

Ms. Vojkovich spoke about the meeting of Dr. McIsaac and Mr. Hansen with the CDFG about process, workload, and personnel issues. CDFG has been experiencing some real issues on being able to support Council activities fully. CDFG recommends that the Chair and Executive Director have a similar conversation with the other states and talk about the common issues. The state agency managers don't always have a clear picture of Council activities, and how to plan for them or look for the right kind of people the Council needs for assistance. This could be helped if there were a strategic plan for all the FMPs, but may not be possible budget wise. Planning helps, but it is a demand in itself.

Mr. Williams related to Ms. Vojkovich's comments about workload. He welcomes the opportunity to sit and talk about how to move forward. But he is finding out that it is the items that we don't see coming at us that cause the problems.

Mr. Lockhart said they might like to participate in some of those meetings and suggested that utilizing videoconference calls might be an efficient way of handling it.

Dr. McIsaac suggested that he could put out a "year horizon" planning sheet at the November meeting to facilitate better planning and also follow-up with further discussion on the possibility of having a special planning meeting outside of the regular Council meetings.

Dr. McIsaac read a letter on behalf of the Council to Mr. Dell Simmons on his retirement.

## **C.2 Process for Council Approval of Regulations Implementing Council Recommendations ("Deeming Process") (09/09/08; 9:22 a.m.)**

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

Dr. John Coon provided the agenda item overview. Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) speaks to a Council submitting, to the Secretary, proposed regulations which the Council deems necessary or appropriate for the purposes of implementing or modifying an FMP or FMP amendment. A recent court case decided that regulations promulgated by National Marine Fisheries Service (NMFS) to implement proposed North Pacific Fishery Management Council (NPFMC) management recommendations contained additional requirements for which there was no evidence the Council had "deemed" the additional requirements necessary or appropriate. As a result, all Councils have been asked to establish a formal process whereby it is clear that the Council has "deemed" all proposed regulations as necessary or appropriate.

The agenda overview identified two possible options for achieving the desired process which involved amending Council Operating Procedure (COP) 1. The options were: (1) have a full, formal Council approval of the regulations, or (2) delegate it to the Executive Director and Council Chair. Dr. Coon directed the Council's attention to C.2.a, Attachment 1, which contained a third option that allowed the Council to choose which course to follow on a case-by-case basis.

### **C.2.b Agency and Tribal Comments**

Mr. Anderson suggested that "necessary and appropriate" is different than the term "consistent" in the proposed language and needs to be changed. Ms. Eileen Cooney, NOAA General Counsel agreed and brought forth the following language as a revision to Option 3 in Attachment 1:



*Proposed Revision for Option 2*

*The Council deems that regulations implementing this management program/this plan amendment/these specification and management measures—are necessary or appropriate in accordance with 303(c) of the MSA. After NMFS has prepared the regulatory language, the Council authorizes the Executive Director to review the regulations to verify that they are consistent with this Council action, before submitting them to the Secretary on behalf of the Council.*

**C.2.c Reports and Comments of Advisory Bodies**

None.

**C.2.d Public Comment**

None.

**C.2.e Council Action: Adopt Final Recommendations for Approving Proposed Regulations Prior to Implementation**

Ms. Cooney's suggested language was discussed in depth and the Council instructed Council staff to include Ms. Cooney's language in a fourth option which deletes the full Council review. Mr. Lockhart also suggested that Council staff remove the deadline dates in the language and insert "prior to final submission to the Secretary of Commerce."

The new Option 4 will come before the Council for approval on Friday, Agenda Item C.8.

**C.3 Update and Communication of Research and Data Needs (09/09/08: 10:12 a.m.)**

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

Mr. Burner provided the agenda item overview.

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

Dr. Ralston provided Agenda item C.3.b, Supplemental SSC Report. Mr. Moore asked about the SSC recommendations on the comments submitted by the National Marine Sanctuary Program; specifically, the comment referring to Section 3.4 on page 16. Dr. Ralston said that in his letter (Agenda Item C.3.a, Attachment 2). Mr. Douros referenced specific habitat studies and seemingly made the case that there has been research done at the global level which alleviates the need to do further studies locally. In that context, the SSC was simply trying to clarify that field studies were needed on the west coast.

Dr. Ralston clarified for Ms. Culver that the SSC focused on prioritizing the groundfish section because the other chapters already had prioritizations that were previously considered by the SSC.

Mr. Lockhart noted that groundfish priority number nine on the first page of the SSC report regarding Pacific whiting harvest policy will become obsolete when the Pacific Whiting Treaty is fully implemented.

Dr. Robert Kope provided Agenda Item C.3.b, Supplemental STT Report. Mr. Gordy Williams suggested reorganizing the salmon chapter so that research needs and data needs are described and prioritized separately to defuse some of the conflicting recommendations on prioritization. Ms. Vojkovich noted the

SSC and the Salmon Technical Team (STT) statements are recommending two different things regarding the release mark rates in Section 4.3. Dr. Kope reported that the STT does not believe this reference is necessary and is recommending its removal, but noted that it is not a major issue for the STT and leaving the recommendation in the report is a reasonable alternative. Dr. Kope confirmed that if the chapter is reorganized as Mr. Williams suggested that the STT believes that items such as escapement monitoring can be listed as a high data need priority and that the global stock identification (GSI) research could be listed as a high research priority.

Mr. Burner read Agenda Item C.3.b, Supplemental SAS Report.

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

None.

### **C.3.d Council Action: Adopt a Final Research and Data Needs Document**

Ms. Vojkovich moved to adopt the SSC recommendations as shown in Agenda Item C.3.b, Supplemental SSC Report with the exception of the recommendations for salmon research and data needs. Ms. Fosmark seconded the motion (Motion 7).

Ms. Vojkovich said she omitted the salmon portion of the SSC report because she wanted to have a separate discussion of how that section can be restructured. The motion is focused on adopting the SSC recommendations on groundfish priorities and for incorporating the comments of the National Marine Sanctuary Program.

Mr. Moore moved (Amendment #1 to Motion 7) to switch groundfish priority nine with groundfish priority ten on the first page of the SSC report due to the potential for dropping this need under the Pacific Whiting Treaty. Mr. Myer seconded Amendment #1.

Amendment #1 to Motion 7 passed unanimously.

Mr. Moore asked for an amendment (Amendment #2 to Motion 7), to change the recommended edit to Section 3.4 on the third page of the SSC report to read "where such studies have not yet been conducted." Mr. Warrens seconded Amendment #2 to Motion 7. Mr. Moore stated the intent here is simply to clarify the SSC intent.

Amendment #2 to Motion 7 passed unanimously.

Main Motion 7 passed unanimously.

Ms. Vojkovich moved (Motion 8) to direct Council staff to reorganize the salmon research and data needs chapter along the lines of the groundfish chapter so that data needs and research needs are listed and prioritized separately, and include the comments in the supplemental reports of the SSC, the SAS, and the STT. Ms. Fosmark seconded Motion 8.

Ms. Vojkovich sees indications that GSI is a high priority for salmon research and agrees that collecting field data and escapement data for forecast models is also a high priority. She felt there was no need for competition for priority status between these research needs and the data needs, and that under this motion both could be listed in separate sections as high priorities.

Mr. Moore said there is a conflict between the SSC and STT recommendations on monitoring release mark rates for salmon and asked which recommendation Ms. Vojkovich was including in the motion.

Ms. Vojkovich said she is satisfied with the way it is currently portrayed in the document and is putting forward the SSC recommendation on the matter.

Ms. Culver concurs with the recommendations in the motion and asked if the intent would be to have staff include the recommendation in the document and consider it final without further future Council review. Ms. Vojkovich confirmed that the motion does not include any additional Council review and provides Council staff the latitude to incorporate the changes and release the document in a final version.

Motion 8 passed unanimously.

#### **C.4 Legislative Matters**

##### **C.4.a Agenda Item Overview (09/10/08; 8:07 a.m.)**

Mr. Burner provided the agenda item overview.

##### **C.4.b Legislative Committee Report**

Mr. Burner provided Agenda Item C.4.b, Supplemental LC Report.

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

Mr. Doug Fricke provided Agenda Item C.4.c, Supplemental HMSAS Report.

##### **C.4.d Public Comment**

None.

##### **C.4.e Council Action: Consider Legislative Committee Recommendations**

Mr. Moore asked about the HMSAS request for a Council update on the implementing legislation for the Antigua Convention. Mr. Lockhart reported there are no updates on this matter.

Mr. Moore moved (Motion 13) that the Council direct the Executive Director to send a letter to U.S. Senator Smith and the U.S. House of Representatives Subcommittee on Fisheries, Wildlife and Oceans, regarding H.R. 6537 that reiterates the Council Coordinating Committee position on the authority to regulate fishing within National Marine Sanctuaries and requests Council participation at future Congressional hearings on NMSA reauthorization. Mr. Cedergreen seconded the motion.

Motion 13 passed. Mr. Lockhart abstained.

#### **C.5 Implementation of the Magnuson-Stevens Reauthorization Act (MSRA)**

##### **C.5.a Agenda Item Overview (09/10/08; 8:15 a.m.)**

Mr. Burner provided the agenda item overview.

##### **C.5.b NMFS Report**

Mr. Frank Lockhart confirmed the extension of the public comment period and stated the focus of the session should be on developing specific Council comments on the language in the proposed rule, including any suggested changes to the proposed regulations that would improve the guidelines for the

Council process. He noted that he as well as Ms. Jennifer Ise, Ms. Eileen Cooney, Mr. Mark Helvey, and Mr. Alan Risenhoover were available for questions.

Mr. Moore asked about the timeline for publishing the final rule. Mr. Lockhart said that NMFS will be moving as quickly as possible and that the extension will add minimal delays, but NMFS now expects a final rule in early 2009. Mr. Moore further asked about the potentially significant changes to the Council process and the need to amend FMPs in a short timeframe to meet the schedule of the reauthorization. Mr. Lockhart said it is going to be a challenge to meet the deadlines imposed by the Magnuson-Stevens Reauthorization Act (MSRA) because the Council will have a little over a year to implement the guidelines and MSRA requirements.

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

Dr. Ralston provided Agenda Item C.5.c, Supplemental SSC Report. Mr. Anderson asked about the SSC statement regarding sources of uncertainty that are not addressed in an acceptable biological catch (ABC) control rule. Dr. Ralston clarified that the SSC is concerned that if an assessment results a variety of outcomes due to several plausible states of nature, the proposed rule would seemingly limit the possible SSC response. He said the ABC control rule calculations can account for uncertainty, but as formulas, they offer little flexibility. He noted a canary rockfish example where assessment results were blended to form the final harvest recommendations and the SSC is unsure how that would work under the proposal.

Mr. Moore noted that in the current groundfish process, overfishing occurs when harvest exceeds the ABC and for healthy stocks, the Council often sets optimum yield (OY) equal to the ABC and wondered what margin the OY levels would have to fall below the ABC under the proposed guidelines. Dr. Ralston noted that ABC will be treated differently than its current use to account for scientific uncertainty. He said the SSC did not discuss specific margins, but he felt the ABC will always need to be below the overfishing level (OFL).

Ms. Fosmark noted the SSC remarks on the “ecosystem component” sections of the proposed rule and asked if the SSC had a different term or a suggested improvement for that term. Dr. Ralston said the SSC did not develop a new term other than the “other fish” term used in the statement. The SSC felt the ecosystem component term is misleading and grandiose because it implies that an ecological role of the species in the FMP has been considered when that is not the proposed use of the term.

Mr. Wolford asked if the SSC anticipated characterizing uncertainty in terms of numbers or in a qualitative sense such as high, medium, or low. Dr. Ralston stated the SSC would likely try to quantify the uncertainty, but noted that different control rules and added flexibility should be expected for data-poor species.

Mr. Roth concurred with the SSC finding that the current proposed rule does not fit well with Council salmon management and asked if the SSC discussed the specifics of the flexibility portion of the proposed rule. Dr. Ralston said the SSC did discuss salmon management and felt that control rules based on escapement goals and exploitation rate limits achieve the intent of the rule, but there is no definitive determination whether this management strategy would fit under the proposed guidelines.

Mr. Burner read Agenda Item C.5.c, Supplemental SAS Report, and Agenda Item C.5.c, Supplemental CPSMT Report.

Mr. Mike Okoniewski provided Agenda Item C.5.c, Supplemental CPSAS Report. Mr. Wolford asked if the formulas expressing a control rule for CPS express the existing management of CPS or is the formula a proposed change. Mr. Burner explained that the formula itself is straight out of the CPS FMP, but the entire bulleted section of the report attempts to express a mechanism by which the existing precautionary

approaches in the existing control rule can meet the requirements of the proposed guidelines. He noted that the control is designed to incorporate scientific uncertainty and is a simple calculation once an estimate of spawning stock biomass is approved. The Council's policy decision is inherent in the control rule and can be changed in response to a conservation concern or new scientific information, but unless amended by the Council, the control rules in place are automatically applied to the estimated abundance to develop a proxy for MSY harvest levels.

Dr. Robert Kope provided Agenda Item C.5.c, Supplemental STT Report. Mr. Anderson asked how the STT drew the conclusion in the second paragraph that stocks north of the Umpqua River are exempt from the proposed regulations because they are internationally managed under the Pacific Salmon Treaty (PST). Dr. Kope stated that these stocks fall under the individual stock-based management (ISBM) classification under the PST that requires these stocks to meet escapement goals set by the PST and further requires that those stocks not meeting those goals be managed under a 40 percent reduction in harvest rate from base period harvest levels. The fisheries are managed by the U.S. Secretary of Commerce according to the recommendations of the Council and in conformity with the PST. Mr. Anderson noted that the language in the statement implies that west coast salmon fisheries are managed by the Pacific Salmon Commission rather than simply complying with the PST.

Mr. Steve Williams asked if tribal treaty rights qualify as international agreements and therefore be exempt from the proposed rule requirements. Ms. Cooney said that there needs to be additional internal discussions on the matter, but for the moment she felt that the entire fishery needs to be considered and tribal treaty rights would not qualify as an international agreement.

Dr. McIsaac asked if the STT felt that the proposed rule guidance on ESA stocks amounted to an exemption from the proposed guidelines. Dr. Kope reported that the flexibility stated in the rule does not exempt ESA stocks and that it was unclear to the STT whether an exemption, like the one proposed for ecosystem components, could be applied.

Ms. Heather Mann provided Agenda Item C.5.c, Supplemental GAP Report.

Dr. Kit Dahl read Agenda Item C.5.c, Supplemental HMSMT Report. Dr. McIsaac referred to the HMSMT statement on the NOAA panel of scientist that is working on technical guidance and clarity on implementing the proposed rule and asked for greater specificity from NMFS. Ms. Ise stated that NMFS did convene such a group to develop methodologies for setting annual catch limits (ACLs) and accountability measures (AMs), particularly for data-poor stocks. The intent is to have a draft out in early 2009. Mr. Lockhart added that Dr. Clarke is participating in the process.

Mr. Peter Fricke provided Agenda Item C.5.c, Supplemental HMSAS Report. Mr. EJ Dick provided Agenda Item C.5.c, Supplemental GMT Report.

#### **C.5.d Public Comment**

None.

#### **C.5.e Council Action: Refine Recommendations for Revised Procedures Regarding National Standard 1 Guidelines, including Annual Catch Limits (09/10/08; 10:08 a.m.)**

Mr. Moore asked NMFS for additional guidance on how the Council and the SSC should calculate scientific uncertainty when developing ABCs. Mr. Risenhoover said that is a topic that NMFS is eager to receive Council comments on. Part of the lack of clarity in the rule is a result of trying to build flexibility in the guidelines so that they can be applied across all eight Regional Councils and across all of the

FMPs. Ms. Jennifer Ise noted that the NMFS group of scientists is also working on further technical guidance in this regard.

Mr. Moore noted that several advisory body reports referenced species that are potentially “outside” the fishery, krill in the CPS plan, monitored stocks in the HMS plan, prohibited species in the groundfish plan, etc., and asked if the “ecosystem component” is intended to capture these species for which there is no active management anticipated. Mr. Risenhoover said the MSA requires an ACL for every fishery and the ecosystem component designation is designed to capture those species that are not in the fishery. Ms. Ise added that a lot of FMPs have species listed in the FMP for data collection only and this was conceived as a mechanism for accounting for those species without considering them in the fishery and therefore needing ACLs.

Mr. Moore noted that the GAP reported on the proposed provision to carry harvest overages into subsequent fishing years as a means of accountability and asked if the proposed provisions in the Council trawl rationalization effort that allow the carryover of unused quota pounds to subsequent years would also be allowed under the proposed guidelines. Mr. Lockhart said he thought it would be allowed and reminded the Council that a principle purpose of the revised guidelines is to prevent overfishing. He felt that in practice this mechanism is not going to be a problem, particularly if the Council takes such a mechanism into consideration when setting the initial management target. Of course any carryover that resulted in exceeding an ABC or OFL would be problematic.

Mr. Anderson spoke to the difficulty of fitting the proposed guidelines to the Council salmon management regime. He referenced the SSC statements regarding the current use of exploitation rate management that could loosely fall under the definition of an ACL and the STT reference to stocks managed under the PST and the Endangered Species Act (ESA). He did not read the language in the proposed rule as an exemption from ACL requirements for salmon or for stocks listed under the ESA. Rather he felt the Council would need to provide, for NMFS review, documentation and rationale for the Council’s existing use of exploitation rate and escapement goal management that clearly demonstrates how this system meets the intent to end and prevent overfishing and how such a management strategy fits under the flexibility stated in the guidelines. Mr. Risenhoover said that he felt Mr. Anderson was correct and confirmed that the MSA does not provide exemptions for salmon or for species listed under the ESA. He noted that the process envisioned by Mr. Anderson is what NMFS had anticipated when they drafted the sections of the proposed guidelines on flexibility for salmon management.

Mr. Moore followed up the discussion and asked if the same careful process of documenting and providing rationale for management approaches that may not meet the strict definition of management reference points such as ACLs could be applied to the Council’s other FMPs. Mr. Risenhoover said there will likely be greater flexibility for internationally managed species as the MSA guidance was very broad in this regard. Ms. Ise asked Mr. Moore for clarification on what types of flexibility (e.g., seasonal or harvest rate management) he was referring to. Mr. Moore said in most cases we have numeric OYs that are derived from different methodologies across the FMPs. He felt the Council is doing a good job achieving the management goals the Congress intended in the reauthorization such as preventing overfishing and addressing overfished stocks. To achieve this task, the Council has developed our own techniques that fit the fisheries the Council manages. Rather than restructure our successful management process to accommodate a template, the Council would prefer flexibility in the “template” to best achieve the goals of what the proposed National Standard 1 guidelines are trying to accomplish. Mr. Risenhoover said that would make an excellent comment to submit for further review, particularly if the comment included some specific examples.

Mr. Tim Roth echoed Mr. Anderson’s comments about managing salmon and expressed his support for Council salmon management and is hopeful that NMFS will recognize that fact.

Mr. David Sones reiterated the intent of the reauthorization and the proposal to get all eight Regional Councils in a position of ending and preventing overfishing. He proposed that each Council could prepare a "state of the resource" type of a report that captures a Regional Council's effectiveness at meeting this intent. For the tribes, conservation is the primary objective.

Mr. Steve Williams expressed his observation that the Pacific Council is a long way towards meeting these guidelines and may have less work to do than other Regional Councils. He supports Mr. Anderson's comments regarding Council management of salmon.

Mr. Anderson reference the graphic on page 32534 of Agenda Item C.5.b, Attachment 1 regarding the relationship between ACLs, annual catch targets (ACTs), and OFLs. He said he was first introduced to many of these new management provisions at the national workshop held in Arlington, Virginia in September of 2007. He noted that the first bullet of the graphic says AMs are associated with ACLs and he thinks they could have been better associated with ACTs because the accountability measures more directly address management uncertainty while an ACL addresses scientific uncertainty. Mr. Anderson asked if it is a correct interpretation that an ACT is established through consideration of a management system's ability to monitor catch and ensure that harvest targets are not exceeded. Mr. Risenhoover confirmed that Mr. Anderson was correct. Ms. Ise noted that said AMs are associated with ACLs in the proposed rule because that is the way they are discussed in the MSA. ACTs are not part of the MSA, but are part of the proposed guidelines and could be associated with AMs to ensure that management uncertainty is accounted for and that ACLs are not exceeded.

Mr. Cedergreen thanked the NMFS staff for their help. He said the Council management area is quite expansive with unique and diverse stocks and fisheries and he believes the goals and objectives of the MSA are being met in most, if not all, cases and hopes that the templates will be as flexible as possible to accommodate Council management.

Mr. Ortmann concurred with the need for flexibility in applying these guidelines across the eight Regional Councils and stressed the importance of maintaining the Council's effective salmon management, including the use of exploitation rate targets as ACLs.

Ms. Vojkovich felt that the proposed rule gives the Council maximum flexibility to meet the goals of the MSA and she stressed the importance of amending our FMPs to describe our current management plans and how they meet the intent of the guidelines. She sees the guidelines as being less restrictive than they first appear because, as other Council members have noted, all of our fisheries are structured to meet the goals and objectives of the MSA and we have accountability measures in place.

Ms. Vojkovich also addressed the large workload imposed by the reauthorization and the need for funding to augment struggling state staffing budgets. If we want to meet the deadlines for implementation of these guidelines, the Council and the states will need additional resources and/or the deadlines will need to be flexible. Mr. Risenhoover said he has heard the message of workload and funding from this Council and that NMFS is trying to get increases through the annual budget cycle. NMFS has proposed increases in the 2009 budget that have passed mark-up sessions in the U.S. House of Representatives and the U.S. Senate, but further negotiations will occur and it is difficult to predict the final outcome. He said the deadlines for implementation are imposed by Congress and are not something NMFS can amend in the guidelines.

Ms. Fosmark thanks the NMFS staff for their participation and said she is appreciative of the exemptions for internationally managed stocks. She said the Pacific Council has done a good job of preventing overfishing and she felt the guidelines were helpful and will provide the Council with the needed flexibility to meet the requirements and maintain its effective management.

Dr. McIsaac presented the following table on the screens in the Council meeting room. He described the table as a speculative calendar for final implementation of the NS1 guidelines, amending the Council FMPs, and promulgating regulations relative to the MSA mandated deadlines of 2010 for fisheries experiencing overfishing and by 2011 for all other fisheries.

<b>Stage</b>	<b>Most Aggressive Schedule Conceivable</b>	<b>High Priority Schedule</b>
Proposed Rule Comment Period Ends	September 2008	September 2008
Final Rule	January 2009	March 2009
"Council Announces Scoping - EIS or EA Determination - Initiate FMP Amendments"	March 2009	June 2009
First FMP Amendment Drafts, Including Alternatives	June 2009	November 2009
Adopt Preliminary Preferred Alternative for Public Review	September 2009	Mar-Apr 2010
Final Council Action	November 2009	June 2010
Secretarial Approval	April 2010	January 2011
Changes in Existing Fishing Regulations	Second Half of 2010	During 2011

The table presents two speculative schedules, one very aggressive and unlikely to be achieved and a second that is perhaps more realistic, but is still an aggressive schedule that places the work on a high priority. Dr. McIsaac stated that under any scenario, the Council and NMFS are facing a large workload with a relatively short time frame with dedicated funding still being sought.

Mr. Risenhoover commended the Council for this type of forward planning and that with no stocks subject to overfishing, the Pacific Council is in a better situation than other Councils facing the 2010 deadline.

Mr. Warrens asked what the Council's legal exposure would be if the aggressive schedules presented are not met and the required management response is not in place by the MSA imposed deadlines. Ms. Cooney stated that the intent would be to meet the Congressional timeline and if that is not possible and the matter ended up in court, the FMP amendment schedules would be reviewed to determine if reasonable work and best efforts are underway. She could not speculate on the outcome of such a review.

Mr. Gordy Williams asked if the Council's expectations on salmon management will fit the proposed schedules. Mr. Anderson reviewed salmon management under exploitation rate and escapement goals and the practice of limiting effort through season limitation or quotas. He felt that the salmon process would not need significant revision and could not speculate on whether or to what extent the salmon FMP would need amending.

Mr. Anderson said he heard a lot of comments regarding the significant flexibility in the proposed rule and the general understanding that the Council will be able to adapt existing management in a way that is consistent with the new guidelines. Mr. Anderson presented another alternative for Council consideration. He referenced comments submitted by the North Pacific Fishery Management Council (NPFMC) (Agenda Item C.5.a, Attachment 2) and concurred that there is a layer of complexity in the proposed guidelines and an opportunity to suggest some simplifications. There are some new terms in the proposed rule that are not necessarily required by the MSA and the NPFMC is proposing or suggesting some simplification of the proposed guidelines. He felt that it was worth considering the comments of the NPFMC, but if the majority of the Council is content with the proposed rule it may not be a good use of time.



Chairman Hansen concurred with Mr. Anderson and the comments of the NPFMC and was supportive of an effort to simplify the proposal.

Mr. Moore said that his previous comments about the need for the expressed flexibility should not be taken as full support of the rule as written and he agreed with Mr. Anderson that meeting the MSA requirements need not be as complicated as the NMFS proposal. Mr. Moore suggested the Council response include some overarching comments as well as the individual statements of the advisory bodies to convey both the Council's general concerns as well as the complete record of the comment provided today. The letter could include a general support of the simplification of the NPFMC. Mr. Anderson said he supported the statements of the advisory bodies, but felt that the response would not provide definitive Council guidance if we simply send in the statements with a cover letter. There are points of clarification in the statements that should be included.

Mr. Anderson suggested there are two tracks the Council can take. The first would be to review the advisory body reports for commonalities and specific recommendations and include them in a letter along with items the Council feels were missed. Alternatively, he agrees with the NPFMC that there is an unnecessary introduction of new terms where existing terms would suffice (e.g., maximum fishing mortality threshold does not need to be replaced with OFL, and total allowable catch does not need to be replaced by an ACT). Therefore, he suggested a second approach whereby the Council recommends a simplification of the rule through the use of existing concepts and terms. Mr. Anderson noted Mr. Risenhoover's comments concerning the need for the rule to accommodate all eight Regional Councils and he was unsure whether a simplification would jeopardize that goal.

Mr. Moore again concurred that the rule does not need to be complicated and recommended a meld of the two approaches where the response includes the advisory comments and a description of how the Council process could fit the guidelines, but also expresses a concurrence with the NPFMC recommendations to simplify the guidelines. Mr. Anderson suggested the Pacific Council response could simply recommend that NMFS carefully consider the NPFMC comments because we share their concerns regarding the level of complexity and the opportunity to use existing terms, where applicable (i.e., ACLs are required by MSA), to meet the intent. Mr. Anderson felt that if existing terms and concepts were used as a model for constructing the proposed guidelines, we should use as many of the existing terms as possible rather than creating new ones.

Chairman Hansen stated that he felt the Council has provided enough guidance at this point and a motion on the matter is unnecessary.

Ms. Fosmark noted that there will be some simplification of the process due to the MSA exemptions for internationally managed species from all but the status determination criteria and MSY combined with the fact that krill are likely to be exempt due to their short life cycle.

Mr. Burner expressed appreciation for the Council's comments in addition to the strong advisory body statements on this topic. He concurred with Mr. Anderson's comments on simplification and felt the Council could move forward with a final response.

## **C.6 Approval of Council Meeting Minutes**

### **C.6.a Council Member Review and Comments**

None.

### **C.6.b Council Action: Approve June Council Meeting Minutes**

Mr. Mallet moved and Mr. Moore seconded a motion (Motion 25) to approve the Draft June Council Meeting minutes as shown in Agenda Item C.6.b, Draft June 2008 Council Meeting Minutes, with the following changes:

- Draft June Minutes, Page 8, under Agenda Item C.1.d, last sentence of the third paragraph where it says “Mr. Moore stated . . .” Correct “rode” to “road.”
- Draft June Voting Log Page 13, Amendment #3 at the bottom where it specifies that permits would be issued to co-ops on the IQ alternative, it says “the motion failed, 10 yes, 2 no, 1 abstention”; it should read “motion failed, 2 yes, 10 no, 1 abstention.”
- Draft June Minutes, Page 37, under Agenda Item F.6.a, correct the first paragraph to read “Responding to questions, Ms. Cooney said that any new options offered at this meeting should be brought up before public comment; linkages between co-ops and motherships can be done, but without congressional action, linkages between co-ops and shoreside processors could not be implemented due to the specifications in the Magnuson-Act; that an initial allocation of IFQ to processors is a policy call not a legal issue; and that restricting vessels with IFQ overages from participating in other federally managed fisheries, e.g., HMS, or CPS, or salmon would present challenges because of differences between what is regulatory action and what is punitive action. Going beyond the groundfish fishery gets more into an enforcement issue. Saying actions could be taken means there is legal authority to take the action, assuming there is an adequate record.”
- Draft June Minutes, correct the spelling for the Makah Attorney, it should read “Mr. Marc Slonim” and not “Mr. Mark Sloan” as presented in the document.
- Draft June Minutes, Page 28, where it reads “Mr. Moore asked if there was any indication of Makah tribal set-asides for bycatch species and Mr. Svec said the current scorecard values are adequate,” it should read “Mr. Moore asked if there was any indication of need for additional Makah tribal set-asides. . . .”
- Draft June Voting Log, Page 8, Motion 30, Amendment #2, it shows “Dr. David Hanson and Mr. Frank Warrens” as voting yes; it should say “All voted no; except Mr. Lockhart, who abstained.”

Motion 25 passed unanimously, pending verification.

## **C.7 Fiscal Matters**

### **C.7.a Agenda Item Overview (09/12/08; 9:32 a.m.)**

Dr. Coon provided the agenda item overview.

### **C.7.b Budget Committee Report**

Mr. Jerry Mallet provided Agenda Item C.7.b, Supplemental Budget Committee Report.

### **C.7.c Reports and Comments of Advisory Bodies**

None.

### **C.7.d Public Comment**

None.

### **C.7.e Council Action: Consider Budget Committee Recommendations**

The Council approved the report of the Budget Committee as shown in Agenda Item C.7.b, Supplemental Budget Committee Report (Motion 26).

### **C.8 Membership Appointments and Council Operating Procedures (COP)**

#### **C.8.a Agenda Item Overview (09/12/08; 9:41 a.m.)**

Dr. Coon provided the agenda item overview.

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

Dr. Coon referred the Council to a report from the Enforcement Consultants.

#### **C.8.c Public Comment**

None.

#### **C.8.d Council Action: Consider Changes to COP and Appoint New Advisory Body Members as Needed**

Ms. Culver moved and Mr. Cedergreen seconded a motion (Motion 27) to appoint Ms. Lisa Veneroso to fill the Washington Department of Fish and Wildlife (WDFW) position on the Coastal Pelagic Species Management Team (replacing Ms. Carol Henry). Motion 27 passed unanimously.

Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 28) to appoint Ms. Lynn Mattes to fill the Oregon Department of Fish and Wildlife vacancy on the GMT. Motion 28 passed unanimously.

Mr. Lockhart moved and Ms. Fosmark seconded a motion (Motion 29) to appoint Ms. Sarah McAvinchey to fill the vacant NMFS Northwest Region position on the Groundfish Management Team (GMT); and appoint Dr. Michael O'Farrell to fill the NMFS Southwest Fisheries Science Center position on the STT (replacing Mr. Michael Mohr). Motion 29 passed unanimously.

The Council also noted that the Enforcement Consultants had selected a new Chair, Deputy Chief Mike Cenci with the WDFW, replacing Mr. Tony Warrington, California Department of Fish and Game.

The Executive Director announced that the Council Chair would make an interim appointment of Ms. Dorothy Lowman to fill the vacant non-voting conservation position on the Groundfish Allocation Committee (GAC), replacing Mr. Steve Barrager. This was necessary to fill the position for the October GAC meeting. The Council directed staff to solicit nominations for a permanent replacement for the position for Council consideration at the November Council meeting.

The Council also unanimously adopted an addition to COP 1, General Council Operating Procedures, (Motion 30) which was a revision gleaned from three options and recommendations from Ms. Cooney that were considered under Agenda Item C.2 to formalize the Council's regulatory deeming process. The adopted language (Option 4) is contained in Agenda Item C.8.a, Supplemental Attachment 1, and authorizes the Executive Director to review the regulations and verify that they are consistent with Council intent.

## **D. Salmon Management**

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

#### **D.1.a Agenda Item Overview (09/08/08; 10:45 a.m.)**

Mr. Chuck Tracy presented the agenda item overview.

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

None.

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

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

Mr. Steve Williams asked if there were data issues in addition to workload associated with the Klamath fall Chinook maturity boundary analysis. Dr. Lawson replied yes. Dr. McIsaac noted Pacific States Marine Fisheries Commission was working on incorporating the missing coded-wire-tag information into their data base.

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

Ms. Vojkovich asked if the Sacramento River fall Chinook abundance index and harvest model review would include issues associated with the lack of fishery data from 2008. Dr. Kope replied the STT would discuss those issues, but that the models should be able to accommodate that without modification.

Mr. Anderson asked if the review would evaluate the Chinook Fishery Regulation Assessment Model (FRAM) for modeling mark-selective fisheries in the ocean. Dr. Kope replied that is the intent of this review.

Mr. Anderson asked if there were other analyses or reviews necessary to allow the STT or SSC to recommend the Chinook FRAM for use in modeling mark selective Chinook fisheries in the ocean. Dr. Kope replied the STT did not have serious concerns, but that the SSC was concerned with propagation of model effects due to Chinook age structure.

Mr. Tracy read into the record Agenda Item D.1.c, Supplemental SAS Report.

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

None.

#### **D.1.e Council Action: Establish Final Methodology Review Priorities for 2009 Salmon Season**

Dr. McIsaac asked why there were no materials available on the coho Endangered Species Act (ESA) consultation standard. Mr. Lockhart replied Dr. Dygert has continued to work on this but a report will not be forthcoming soon.

Dr. McIsaac asked if the Council should expect no change for 2009 guidance. Mr. Lockhart replied the guidance letter would be developed based on the information available at the time, including any relevant

stock status information. A change would be possible at that time; but a formal document for review by the SSC would likely not be available.

Mr. Anderson asked if there was opportunity for Oregon to have any new information provided to address the issues in NMFS letter of May 19 (Agenda Item D.1.b, NMFS Letter). Mr. Steve Williams replied a draft document was scheduled for early in 2009, although that timeline had slipped to some unknown degree.

Mr. Anderson asked if it was likely that given the progress to date and expected in the near future that the NMFS guidance for 2009 would not provide any additional relief to coho fishery constraints. Mr. Lockhart replied that would be a safe assumption.

Mr. Anderson noted that the hatchery reform efforts in the lower Columbia River to reduce impacts on natural stocks were necessary to maintain current hatchery Chinook production levels, and that mark selective fisheries were part of those efforts. In the absence of those efforts, the allowable exploitation rate on natural tule Chinook stocks would likely decline to the point of eliminating ocean Chinook fisheries. The use of Chinook FRAM to evaluate impacts on natural tule stocks was also an important part of those efforts and for that reason this review is a high priority.

Mr. Tim Roth agreed with Mr. Anderson's comments. United States Fish and Wildlife Service (USFWS) initiated a mass marking program prior to the State's and all age classes of Spring Creek tule Chinook were mass marked.

Mr. Cedergreen considered Chinook FRAM review as the top priority to maintain the economies of coastal communities.

Dr. McIsaac asked what the Chinook mark rate for Westport recreational fisheries was in 2008. Mr. Cedergreen replied anecdotal information indicated between 50 and 80 percent early in the season, which was higher than that for coho.

Mr. Steve Williams also considered review of Chinook FRAM as the highest priority.

Mr. Anderson moved (Motion 2) to adopt in priority order for the salmon methodology review, Items #1, #2, and #3 as shown in Agenda Item D.1.c, STT Report. Mr. Cedergreen seconded the motion.

Motion 2 passed unanimously.

## **D.2 Progress Report on Causes of the 2008 Salmon Failure**

### **D.2.a Agenda Item Overview (09/08/08; 11:25 a.m.)**

Mr. Tracy presented the agenda item overview.

### **D.2.b West Coast Salmon Work Group Progress Report**

Drs. John Stein and Churchill Grimes presented Agenda Item D.2.b, West Coast Salmon Work Group Progress Report PowerPoint (on Council website).

Chairman Hanson asked if there was information on the possible effects of Humboldt squid on salmon abundance. Dr. Grimes replied information was available but there was no evidence of a relationship.

Ms. Vojkovich asked what type of comment was sought for the January 2009 meeting. Dr. Stein replied they wanted comment on the draft report.

Ms. Vojkovich asked if there was an alternate way of getting information people that did not attend the August 29 meeting. Dr. Grimes replied yes, there was an electronic submission site available.

Ms. Vojkovich asked if there was a follow up to get that information or if it was voluntary only. Dr. Grimes replied there was an initial follow up, but no additional follow up was anticipated.

Mr. Wolford asked if the rationale for removing items from the list of possible causes was available. Dr. Grimes replied there was either duplication or the Work Group felt there was sufficient information available for a tentative decision; however, items could be reinstated if sufficient information was provided. Mr. Tracy replied page 2 of the Agenda Item D.2.d, Work Group Report, indicated that a full rationale would be provided in the final report.

Mr. Wolford asked whether some of the removals were due to lack of information. Dr. Grimes replied no.

Mr. Wolford asked if the schedule was reasonable. Dr. Stein replied the schedule was requested by the Council and was tight, but should be achievable.

Ms. Fosmark asked if this email address for submitting additional information could be made available. Mr. Tracy replied the email address was in Agenda Item D.2.d, Supplemental SAS Report.

Dr. McIsaac asked how the Work Group would address topics with insufficient information. Dr. Grimes replied the Work Group members would make every attempt to acquire data on identified topics.

#### **D.2.c Agency and Tribal Comments (09/08/08; 1:35 p.m.)**

Ms. Vojkovich noted the California Ocean Protection Council also held workshops in August on the salmon collapse, and were seeking public input on policy direction.

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

Dr. Pete Lawson presented Agenda Item D.2.d, Supplemental SSC Report.

Mr. Tracy read into the record Agenda Item D.2.d, Supplemental SAS Report.

#### **D.2.e Public Comment**

None.

#### **D.2.f Council Discussion and Guidance**

Mr. Wolford requested that the Work Group provide a very brief line by line rationale for why items were deleted from the list of possible causes for the salmon collapse.

Ms. Vojkovich recommended:

- an editor be used to make the report more cohesive;
- to have the final report to the Council be easily digestible for a non-scientific audience;
- address cumulative effects, and;
- incorporate Ocean Policy Committee considerations.

Dr. Grimes replied Work Group members were participating in the Ocean Policy Committee process.

Mr. Sones asked if enforcement issues were identified in the progress report. Dr. Stein replied no, but they would add that to the list.

Dr. McIsaac asked what the peer review process would be for completing the process. Dr. Grimes replied the first priority would be to meet the Council scheduled deadline for a report by April 2009, and the SSC would provide some review of that product. The journal manuscript review would follow normal procedures and be reviewed outside the Work Group and Council forums.

### **D.3 Central Valley Salmon Recovery Plan (09/08/08; 1:57 p.m.)**

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

Mr. Tracy presented the agenda item overview and summarized Agenda Item D.3.a, Attachment 2.

#### **D.3.b NMFS Report**

Ms. Maria Rea, NMFS, presented Agenda Item D.3.b, Supplemental PowerPoint presentation. (Central Valley Salmon and Steelhead Recovery Plan Update).

Dr. McIsaac asked what the recovery goals for winter Chinook were. Ms. Rea replied that they were primarily having more than one viable population in the diversity groups and having acceptable levels of hatchery influence in those populations.

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

Ms. Vojkovich noted that CDFG has submitted direct comments to NMFS.

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

Dr. Kope presented Agenda Item D.3.d, STT Report.

Dr. McIsaac asked what the reduction was in ocean harvest rate for winter Chinook since the 1970's. Dr. Kope replied there was no adequate information to make an estimate.

Mr. Tracy read into the record Agenda Item D.3.d, Supplemental SAS Report.

#### **D.3.e Public Comment**

None.

#### **D.3.f Council Comments**

Ms. Vojkovich moved (Motion 3) to submit comments from Council staff and advisory bodies as shown in Agenda Item D.3.a, Attachment 2 Staff Comments, Agenda Item D.3.d, STT Report, and Agenda Item D.3.d, Supplemental SAS Report, to NMFS and ask that they consider the comments in their draft of the Central Valley Salmon Recovery Plan. Mr. Wolford seconded the motion.

Motion 3 passed unanimously.

## **E. Pacific Halibut Management**

### **E.1 Pacific Halibut Bycatch Estimate for International Pacific Halibut Commission (IPHC) Adoption**

#### **E.1.a Agenda Item Overview (09/08/08; 2:33 p.m.)**

Mr. Tracy presented the agenda item overview.

#### **E.1.b NMFS Report**

Dr. Jim Hastie presented Agenda Item E.1.b, Supplemental NMFS Report via PowerPoint.

Mr. Anderson asked why there were different proportions of legal sized fish estimated for the two methods of assigning mortality. Dr. Hastie replied it was based on the distribution of legal sized fish in the various strata with different mortality rates.

Mr. Anderson asked if the NMFS Northwest Fisheries Science Center (NWFSC) was making a recommendation on which mortality method to use. Dr. Hastie replied not at the time; while the viability method was consistent with that used in Alaska, there were sample size issues.

Mr. Anderson asked how the sample rates compare with Canadian and Alaskan sample rates. Dr. Hastie replied he did not know.

Mr. Moore asked if restricting the trawl fleet to deeper water resulted in more halibut mortality. Dr. Hastie replied no, the mortality rate would increase due to longer tows and greater thermal gradients, etc., but the bycatch rates generally decline. For example, given similar effort in earlier years, the bycatch mortality actually decreased.

Mr. Williams asked what analysis was used to assess fixed gear bycatch mortality on Pacific halibut. Dr. Hastie replied the analysis was very aggregated, and that use of logbooks could allow additional stratifications.

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

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

Dr. McIsaac asked if the SSC was endorsing use of the viability criteria. Dr. Ralston replied the SSC felt the viability criteria should be used, but that additional analyses should be conducted prior to the 2009 management season.

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

None.

#### **E.1.e Council Review and Guidance**

Mr. Anderson moved (Motion 4) to adopt the recommendations for halibut management for Area 2A as submitted by NMFS NWFSC, and recommend halibut bycatch levels consistent with the observer based viability criteria and the recommendations of the SSC. Mr. Rod Moore seconded the motion.

Motion 4 passed unanimously.



## **E.2 Pacific Halibut Catch Apportionment Methodology (09/08/08; 3:14 p.m.)**

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

Mr. Tracy presented the agenda item overview.

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

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

Dr. Ralston presented Agenda Item E.2.b, Supplemental SSC Report.

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

Dr. Leaman, IPHC Executive Director, stated the IPHC staff had agreed to meet with Area 2A halibut managers to discuss apportionment issues. He noted that the Area 2 age structure was substantially truncated and the IPHC staff believes that represents a significant loss of reproductive capacity. Apportionment in Area 2A is problematic due to data issues, but whatever solution is reached, it should be applied equally to all catch areas and the stock as a whole, and it should be robust to uncertainty in stock structure.

### **E.2.d Council Action: Recommendations to IPHC**

Mr. Anderson asked if the NMFS NWFSC could provide trawl survey catch information to the Halibut Managers Workgroup. Dr. Elizabeth Clarke replied the raw numbers would be obtainable before November.

Mr. Anderson noted the Halibut Managers Workgroup will report back to the Council in November after its meeting with IPHC staff on apportionment issues.

## **E.3 Proposed Changes to Catch Sharing Plan and 2009 Annual Regulations**

### **E.3.a Agenda Item Overview (09/08/08; 3:50 p.m.)**

Mr. Tracy presented the agenda item overview.

### **E.3.b Agency and Tribal Recommendations and Comments**

Mr. Anderson asked for a brief overview at the November Council meeting of how and why the tribal catch went over their halibut quota, and what measures would be taken to ensure it doesn't happen again. Mr. Sones replied an overview of the overall management plan could be provided, and the individual tribes could report on their quota management.

Mr. Anderson presented Agenda Item E.3.b, Supplemental WDFW Report.

Mr. Don Bodenmiller presented Agenda Item E.3.b, Supplemental ODFW Report.

Mr. Anderson asked if lingcod and yelloweye rockfish catch were associated in Oregon waters. Mr. Bodenmiller replied that the intent of the proposal was that anglers would be targeting halibut and incidentally catching lingcod.

Mr. Anderson asked if there was a concern about anglers catching halibut then targeting lingcod. Mr. Bodermiller replied yes.

Mr. Tracy asked how the inside 40 fathom quota would be managed when the Columbia River area was open. Mr. Bodermiller replied catch would be assigned to the Columbia catch area on those days, and to the Central Coast subarea on the days the Columbia River subarea was closed.

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

Ms. Heather Mann presented Agenda Item E.3.c, Supplemental GAP Report.

Mr. Moore asked who would prepare the proposed white paper. Ms. Mann replied Council staff, NMFS, and/or GMT members.

### **E.3.d Public Comment**

Ms. Leesa Cobb, Port Orford, OR  
Mr. Amy Braundon, Port Orford, OR

Mr. Moore asked what the process would be to allow retention of halibut bycatch from fixed gear fisheries south of Point Chehalis. Ms. Cooney replied it would require rulemaking under the Halibut Act as opposed to the Magnuson Act, and would require at least two Council meetings, depending on the analysis and review period, and the necessary revisions to the Catch Sharing Plan (CSP).

### **E.3.e Council Action: Adopt Proposed Changes for Public Review**

Mr. Anderson moved (Motion 5) to adopt for public review the proposed changes to the Area 2A Pacific halibut catch sharing plan and 2009 annual regulations as shown in Agenda Item E.3.b, Supplemental WDFW Report. Mr. Myer seconded the motion.

Motion 5 passed unanimously.

Mr. Williams moved (Motion 6) to adopt for public review the proposed changes to the Area 2A Pacific halibut catch sharing plan and 2009 annual regulations as shown in Agenda Item E.3.b, Supplemental ODFW Report; in addition, direct NMFS, ODFW, and others to develop an informational report based on recommendations in Agenda Item E.3.c, Supplemental GAP Report. Mr. Frank Warrens seconded the motion.

Ms. Vojkovich asked if the motion was intended to initiate the process for consideration by the Council of the retention of halibut bycatch in fixed gear fisheries. Mr. Williams replied yes.

Ms. Vojkovich inquired about the workload and timing implications. Mr. Williams recommended the process should be complete in time for the September 2009 consideration of proposed CSP modifications.

Mr. Anderson was concerned about going forward with the bycatch retention process because currently halibut bycatch was not accounted for in the fixed gear fleet. Once the level of bycatch and mortality rates were determined, a decision on how to allocate the mortality would be needed. After that point, the Council could consider an incidental allowance for the fixed gear sablefish fishery south of Point Chehalis. Because of the uncertainty in the apportionment and bycatch mortality issues, other CSP changes may be necessary; the workload may necessarily postpone consideration of the bycatch retention issue, and a piecemeal approach to CSP revisions would not be desirable. Mr. Williams replied the motion was only to initiate a process to collect information for future consideration.

Ms. Vojkovich recommended approaching workload issues in a more strategic manner.

Mr. Anderson asked when fixed gear halibut bycatch information would be available. Dr. Clarke replied methodology was being developed with the IPHC to provide mortality estimates. Initial review of the methods would likely occur in spring of 2009, with preliminary estimates to follow.

Mr. Anderson asked if the intent of the process was to allow retention of halibut bycatch discards or to allocate some portion of the Area 2A total allowable catch (TAC) to the fixed gear fishery south of Point Chehalis. Mr. Williams replied the intent was to gather information necessary to explore options, not to take the discards off the top of the Area 2A TAC or reallocate from one group to another.

Mr. Anderson was also concerned about the ODFW proposal to allow lingcod retention and the possibility of increased yelloweye rockfish impacts, and requested information at the November Council meeting on that issue.

Motion 6 passed unanimously.

## **F. Enforcement**

### **F.1 Enforcement Activity Report (09/09/08; 8:06 a.m.)**

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

Mr. Burner provided a brief agenda item overview.

#### **F.1.b NMFS Enforcement Presentation**

Special Agent in Charge Vicki Nomura, and Special Agent in Charge Don Masters gave the report for the Northwest and Southwest Regions of the NMFS Office of Law Enforcement (OLE) which was well received by the Council (Powerpoint presentation).

#### **F.1.c Report and Comments of Advisory Bodies**

None.

#### **F.1.d Public Comment**

None.

#### **F.1.e Council Discussion**

Mr. Anderson asked how many agents are in the Northwest Region. Ms. Nomura reported 16: 3 in Bellingham, WA, 3 in Seattle, WA, 1 in Port Angeles, WA (and one vacancy); 1 in Westport, WA; 2 in Astoria, OR; 1 in Portland, OR; 1 in Roseburg, Oregon; and 1 in Boise, Idaho. Mr. Anderson also asked for the number of vessels the OLE has available for ocean patrols. Ms. Nomura said there were 3 or 4.

Mr. Anderson expressed concerns about references in the presentation to insignificant recreational fishery activity in the Olympic National Marine Sanctuary (ONMS). Ms. Nomura clarified that the statement was focused on all recreational activities and was intended only to note that activity in the relatively remote OCNMS is less than that of the California sanctuaries, not that activity in the OCNMS was

insignificant. Mr. Anderson noted the presentation incorrectly referenced only one island in the OCNMS. Ms. Nomura said the omission has been noted for correction.

Mr. Anderson asked if the requirements for vessels to avoid orca whales was Federal law. Ms. Nomura said that it was not, but that violations could be issued under the ESA or the Marine Mammal Protection Act (MMPA) and that recently passed State legislation in Washington has been helpful.

Mr. Jerry Mallet noted that the OLE has an enforcement agreement with Idaho that is primarily focused on ESA salmon issues and asked why this partnership was not noted in the presentation. Ms. Nomura noted the omission and clarified that the partnership with IDFG is very effective, but that OLE is prevented from forming a Joint Enforcement Agreement (JEA) with Idaho because JEAs are limited to coastal states.

Ms. Kathy Fosmark asked for additional information on the 26 international violations. Ms. Nomura reported that illegal foreign fishing operations are detected by United States Coast Guard (USCG) and NMFS OLE patrols and are also reported by others. Many cases are discovered and investigated after the fact and result in a lengthy paper chase by our investigators. U.S. authority becomes effective if OLE can prove an MSA or Lacey Act violation.

Mr. Anderson expressed appreciation for the JEA program and felt it has been extremely valuable for both state and Federal enforcement.

Mr. David Sones asked who is responsible for enforcing the 200 mile EEZ boundary. Ms. Nomura said that OLE conducts patrols in cooperation with the USCG and that some of the state enforcement vessels are able to patrol Federal waters as well.

Chairman Hansen asked Mr. Don Masters about sea lion problems in the Newport, CA marina. Mr. Masters confirmed that there have been several incidents in that area and that his office is responsible for monitoring those interactions under the MMPA.

Dr. McIsaac noted that the electronic monitoring video clip in the presentation depicting a violation at sea was of poor quality and asked if that was the case with all of the footage. Ms. Nomura said that date, time, and other confidential information that was taken out by video technicians and that the video used for monitoring is better quality. She also noted that OLE does not have the manpower and resources to view the videos in real-time and video review is contracted out and NMFS is made aware of suspicious activities for further review.

Dr. McIsaac asked if there is anything the Council can do to support the OLE and its activities. Ms. Nomura said the JEA is currently under review and Council support is very important to the program and that Council members may be contacted during the course of the review.

## **G. Habitat**

### **G.1 Current Habitat Issues**

#### **G.1.a Agenda Item Overview (09/09/08; 11:05 a.m.)**

Ms. Jennifer Gilden provided the agenda item overview.

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

Ms. Teresa Scott provided Agenda Item G.1.b, Supplemental HC Report. Ms. Scott also provided Agenda Item D.2.d, Supplemental HC Report—Progress Report on Causes of the 2008 Salmon Failure, and Agenda Item D.3.d, Supplemental HC Report—HC Comments on Central Valley Chinook Recovery Plan.

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

None.

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

None.

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

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 9) relative to the Central Valley Chinook Recovery Plan, to include the comments of the Habitat Committee as shown in Agenda Item D.3.c, Supplemental HC Report to forward to NMFS. (The rest of the advisory body comments were included to forward to NMFS under Motion 3.)

Motion 9 passed unanimously.

## **H. Highly Migratory Species Management (HMS)**

### **H.1 National Marine Fisheries Service (NMFS) Report**

#### **H.1.a Southwest Region Activity Report (09/09/08; 1:04 p.m.)**

Mr. Helvey walked the Council through Supplemental Informational Report 8 (proposed critical habitat designation for the threatened southern distinct population segment of green sturgeon). Mr. Helvey reviewed Agenda Item H.1.a, Southwest Region Activity Report.

#### **H.1.b Southwest Fishery Science Center Report**

Mr. Russ Vetter provided a PowerPoint Presentation.

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

None.

#### **H.1.d Public Comment**

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

#### **H.1.e Council Discussion**

Ms. Culver asked if the Council and its advisory bodies would have an opportunity to review the deep-set longline fishery environmental assessment. The environmental assessment (EA) is being finalized and

does not require Council action, because it supplements analysis of Council action in adopting the HMS FMP. Mr. Helvey said that the EA would be made available to the Council and its advisory bodies.

## **H.2 Changes to Routine Management Measures for 2009-2010 Season (09/09/08; 1:52 p.m.)**

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

Dr. Dahl provided the agenda item overview.

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

Mr. Craig Heberer provided Agenda Item H.2.b, HMSMT Report and Agenda Item H.2.b, Supplemental HMSMT Report.

Mr. Doug Fricke provided Agenda Item H.2.b, Supplemental HMSAS Report.

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

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

Mr. Steve Crooke, recreational angler, Irvine, CA

Ms. Meghan Jeans, Ocean Conservancy, San Francisco, CA

Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA

### **H.2.d Council Action: Adopt Proposed Changes for 2009–10 Routine Management Measures for Public Review**

Ms. Vojkovich moved and Ms. Fosmark seconded a motion (Motion 10) to adopt the following as a preferred alternative to regulatory changes for HMS fisheries for 2009-10:

- A seasonal closure for all HMS commercial shark fisheries south of 34° 27' N. latitude that is generally the same as the current drift gillnet (DGN) fishery. (The DGN fishery is closed 0-200 nm February 1 to April 30 and 0-75 nm May 1 to August 14 from the U.S.-Mexico border to the U.S.-Canada border.)
- A seasonal closure for the recreational HMS shark fishery for the entire state (U.S.-Mexico border to California-Oregon border) during that same time period, February 1-August 14, 0-200 nm.

Alternatives 1-4, contained in HMSMT Report H.2.b, and a fifth option contained on page 11 of the HMSMT report, a mandatory data collection requirement for all shark tournaments, are also put out for public review.

Speaking to her motion, Ms. Vojkovich said that the commercial hook and line fishery and recreational fishery have shown increasing catch while managers have not monitored the situation closely. Although the thresher shark harvest guideline has not been exceeded, the Council should use the precautionary approach for thresher sharks. It is important to protect these sharks during their pupping season. This was the purpose of the DGN fishery closure.

Mr. Moore asked several questions about the motion. In response, Ms. Vojkovich said the closures are not depth-based. The preferred alternatives are offered in addition to Alternative 2 in the HMSMT report, which also describes seasonal closures. The seasonal closure would not cover incidental take in other non-HMS fisheries.

Dr. Dahl said the Council would normally choose a preferred alternative at the November meeting. He suggested that the motion indicate that these are “preliminary preferred alternatives” to reflect that fact that we are still seeking public input.

Ms. Fosmark asked for clarification of the latitudinal extent of the closures and whether they are the same as the DGN seasonal closure. Ms. Vojkovich reiterated that for the recreational fishery it is statewide and for the commercial fishery it is south of 34° 27’ N. latitude. She expects public comment from fishers that don’t think they should be subject to such a closure.

Ms. Vojkovich also suggested some clarifications in the wording of Alternative 3 in the HMSMT Report, Agenda Item H.2.b, bag limits. The daily bag limit options would then be:

- One shark per day (1 shortfin mako, or 1 common thresher, or 1 pelagic thresher, or 1 bigeye thresher, or 1 blue shark)
- One shark of each HMS shark species per day (no more than 1 shortfin mako, and 1 common thresher, and 1 pelagic thresher, and 1 bigeye thresher, and 1 blue shark)

Mr. Helvey warned that closing all HMS fisheries in the Southern California Bight would affect the purse seine fishery. Ms. Vojkovich asked how the action should be worded to prevent commercial fisheries catching thresher sharks; would it be possible to say “HMS shark fisheries”? (The description of the motion above includes this clarification.)

Mr. Moore asked if the motion included the HMSMT recommendation to include a 1 shark per boat limit. Ms. Vojkovich said it did.

Motion 10 passed unanimously.

Ms. Vojkovich asked the Council to recommend to NMFS that high priority be given to stock assessments for shortfin mako, blue, and common thresher sharks. The Council concurred on this guidance to NMFS.

Ms. Culver asked Mr. Helvey about the second action described in the situation summary to address the vessel marking requirement west of 150° as required by WCPFC Conservation and Management Measure 2004-03. Does it need to be addressed through the harvest specifications and management measures process or could it be addressed by a recommendation from the Council to NMFS? Mr. Helvey said such a recommendation would be sufficient for NMFS to undertake rulemaking.

Ms. Culver moved (Motion 11) to request NMFS to adopt revised regulations at 50 CFR 660.704 and in 50 CFR 300.173 to allow, but not necessarily require, vessels to be marked with their international radio call sign (IRCS) consistent with WCPFC CMM 2004-03. Mr. Dale Myer seconded the motion.

Motion 11 passed unanimously.

### **H.3 Fishery Management Plan Amendment 2: High Seas Shallow Set Longline Management**

#### **H.3.a Agenda Item Overview (09/09/08; 3:36 p.m.)**

Dr. Dahl provided the agenda item overview.

#### **H.3.b Agency Comments**

None.

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

Mr. Craig Heberer and Dr. Stokes provided Agenda Item H.3.c, HMSMT Report and Agenda Item H.3.c, Supplemental HMSMT Report.

Mr. Doug Fricke provided Agenda Item H.3.c, Supplemental HMSAS Report.

### **H.3.d Public Comment**

Mr. Ben Enticknapp, Oceana, Portland, OR

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

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

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

### **H.3.e Council Action: Refine Amendment Alternatives (09/09/08; 5:10 p.m.)**

Mr. Moore asked for clarification on the process and when the appropriate National Environmental Policy Act analysis would be done. Dr. Dahl described the anticipated process at this time: a preliminary DEIS would be available in early 2009 with the Council slated to take final action at their April 2009 meeting. Then it would go through Secretarial review, rulemaking, etc. In response to Mr. Moore's question about public comment on expanding the description of the proposed action to include other gear types, Dr. Dahl said the proposed action is focused on addressing the disapproved portion of the FMP only. However, the analysis could look into the feasibility of those gear types expanding their landings to meet demand.

Dr. McIsaac asked NOAA GC to respond to part of the written public comments stating that the public process as described is inappropriate. Mr. Feder said that the comment was based on the understanding that the Council was taking some kind of final action at this meeting, which is not the case. Mr. Helvey followed up by saying that the confusion arose from the Notice of Intent stating that the Council would choose a preliminary preferred alternative at this meeting, which is not the case.

Ms. Fosmark clarified that the DGN permit is owned by a person, and the person can't fish two permits at one time.

Ms. Culver asked Mr. Helvey about the letter from Dr. Balsiger (Agenda Item H.3.a, Attachment 2) and what actions have been taken by PIRO and SWR to coordinate review of the WPFMC and PFMC actions. Mr. Helvey said that the former PRD ARA from PIRO is now working in SWR PRD and that is a starting point for addressing Dr. Balsiger's request.

Ms. Culver then asked if the WPFMC/PIRO had received a similar letter from Dr. Balsiger. Mr. Helvey said he did not know.

Ms. Fosmark moved (Motion 12) to adopt Agenda Item H.3.c, HMSMT Report, Agenda Item H.3.c, Supplemental HMSMT Report, and Agenda Item H.3.c, Supplemental HMSAS Report as refinements to the alternatives for public review and Council action at the April 2009 meeting. She would like to remind the Council that the WPFMC is planning to increase Hawaiian shallow-set longline effort in the eastern Pacific and we should be mindful of that. Mr. Dan Wolford seconded Motion 12.

Mr. Moore said the HMSMT recommended modifying Alternative 3, open access, to make it a limited entry program. He asked if the motion would keep Alternative 3 as is and add another option for a limited entry program based on Alternative 3, as recommended by the HMSMT, or choose one over the other. Ms. Fosmark said that both the current Alternative 3 and the modification recommended by the HMSMT to create a limited entry program are included.



Mr. Moore said none of the team documents are clear on whether permit transferability would be allowed. He asked if the analysis should consider the issue of permit transferability. Ms. Fosmark said the intent was to include the last recommendation in the Supplemental HMSMT report addressing transferability.

Mr. Moore then asked if Ms. Fosmark was considering any specific period of time during which transfer would be prohibited. Ms. Fosmark said she thinks it is acceptable to look at a 1- or 2-year period.

Ms. Vojkovich said, relative to the last issue, that the term “actively fish” in the HMSMT recommendation is not defined. She proposed defining a range of one to five landings per year (Amendment 1 to Motion 12) to define “actively fish.” The amendment was seconded by Dr. David Hanson.

Mr. Moore asked if the definition of actively fish applied only to the permit holder and whether crew members were excluded. Ms. Vojkovich said that the HMSMT recommendation referenced the permit holder.

Mr. Dan Wolford expressed concern about including a range of numbers for landings rather than a single number.

Ms. Fosmark was concerned that this requirement could make it too difficult to ultimately transfer the permit.

Mr. Wolford said he now understood that the proposed range of numbers in the amendment to the motion was intended to solicit comments from the public and ultimately one number would be chosen. In that case he is satisfied with a range at this point.

Mr. Steve Williams raised the concern that a person wouldn't be able to make the necessary number of landings if the sea turtle take cap was reached prematurely in a given year. Ms. Vojkovich recommended changing the amendment so the range of landings was from zero to five (i.e., the range includes no landing requirement) so that issue could be analyzed.

Mr. Tim Roth interjected to recommend that NMFS and the Council coordinate with USFWS to address any seabird-related impacts pursuant to the ESA and Migratory Bird Treaty Act.

Mr. Myer asked if the discussion the Council had at the March 2008 meeting related to a prohibition on a person owning a West Coast SSLL permit and a Hawaii longline limited entry permit simultaneously was in any way addressed in the alternatives. He thought not. Ms. Fosmark said the second paragraph in the HMSAS report references the Hawaii longline fleet and she included that as a consideration in her motion. She suggested a separate motion to clarify

Dr. McIsaac read back Amendment 1 made by Ms. Vojkovich.

Mr. Moore moved to amend Amendment #1 to Motion 12 to change the range from one to five to zero to five. Mr. Warrens seconded amendment #2.

Amendment #2 passed unanimously.

Amendment #1 (as amended) passed unanimously.

Mr. Myer moved (Amendment #3 to Motion 12) to include a prohibition on an individual owning both a West Coast SSLL permit and a Hawaii longline limited entry permit simultaneously. Mr. Moore seconded the amendment.

Ms. Vojkovich asked if Mr. Myer's motion would require an individual to divest themselves of a Hawaii permit to qualify or own a West Coast SSLL permit. Mr. Myer said the intention was that they couldn't own the two permits simultaneously.

Ms. Fosmark suggested that the amendment allow them to own both permits but an individual could only fish one of the permits in a given year. Mr. Myer said that is the intent.

Dr. David Hanson said that what Mr. Myer and Ms. Fosmark are saying are totally different things. The amendment prohibited owning both permits while Ms. Fosmark was talking about using both permits at the same time. Dr. McIsaac said the language in the amendment includes a prohibition on "owning" both permits but in the clarification he heard "exercising" or "utilizing." Because of the confusion Mr. Myer asked to withdraw the motion and indicated he would try again. The seconder agreed to withdraw the amendment.

Dr. McIsaac said absent any more amendments we will be voting on the main motion.

Mr. Myer moved (Amendment #4 to Motion 12) to amend the main motion to include a prohibition on a person exercising/utilizing a West Coast SSLL permit while at the same time exercising/utilizing a Hawaii longline limited entry permit. Dr. Hanson asked if the intent was that in any given year they couldn't exercise/utilize both permits. Mr. Myer said yes. Mr. Moore seconded the amendment.

Amendment #4 to Motion 12 passed unanimously.

Mr. Steve Williams asked if the fourth paragraph of the Supplemental HMSAS Report, discussing permanent transfer of fishing opportunity from DGN to SSLL, was part of the motion. Ms. Fosmark said the motion only included the second paragraph in the Supplemental HMSAS Report and there was no intention that retiring a DGN permit would be required when receiving a SSLL permit.

Ms. Culver said in regard to the main motion she was unsure where the Council was in the overall process for taking action. Furthermore, in reading about the WPFMC's proposed action (described in Agenda Item H.3.a, Attachment 1), which would allow a substantial increase in sea turtle takes, she was concerned about the overall impact of the two actions. She recommended focusing on collaboration between the two councils to develop a joint action and deferring further action on this FMP amendment action if it is on a separate track from the WPFMC's action. She also recommended giving higher priority to the biennial management measures and the white paper on albacore fishery management. Once the Council has made some progress on collaboration between the two councils this item could again be brought up for discussion. At that point the Council might also have more information on the status of loggerhead sea turtles and the total regional impact of both proposals.

Mr. Helvey said that a proposal needs to come out of this Council to facilitate collaboration. For that reason he thought it was a good idea to move forward with this action. Ms. Culver said it would show good faith to not proceed with this action and explore a joint action first. Mr. Helvey said the opportunity for collaboration will be in developing the biological opinion.

Main Motion 12 as amended passed. Ms. Culver, Mr. Dale Myer, and Ms. Vojkovich voted no.

Ms. Culver asked for clarification on the process going forward. Dr. Dahl repeated the answer he had given to Mr. Moore previously in response to the same question.

## **I. Groundfish Management**

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

#### **I.1.a Agenda Item Overview (09/10/08; 1 p.m.)**

Mr. Merrick Burden provided the agenda item overview.

#### **I.1.b Report of the Groundfish Management Team**

Ms. Joanna Grebel and Ms. Gretchen Arentzen provided Agenda Item I.1.b, Supplemental GMT Report.

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

Mr. Moore asked Mr. Lockhart about the possibility of the Council recommending two separate inseason actions. One action would be specific to whiting and the other would be specific to the other fisheries. Mr. Moore specifically asked if doing so would put both actions on different time tracks for implementation. Mr. Lockhart said yes.

Mr. Anderson addressed the need to adequately document and monitor catch in the whiting fishery to make sure OYs are not exceeded for overfished species. Mr. Anderson asked if there are any differences in the ability to monitor the fishery now if a re-opening occurred compared to the ability to monitor the whiting fishery earlier in the year. Mr. Lockhart indicated that there were differences due to the unique circumstances regarding monitoring of the shoreside fishery. He indicated that, following the closure of the whiting fishery, the shoreside compliance monitors had left and it may be problematic to find monitors and get them back in the shoreside plants in order to adequately monitor the fishery. Mr. Anderson indicated that in the Council's decision on the possibility of re-opening the whiting fishery, that the decision may include a caveat that any action be conditional on appropriate monitors being in place to track the catch of overfished species.

Mr. Myer indicated that there may not be as many shoreside processors that would participate in a whiting fishery re-opening and this may reduce the demand for shoreside compliance monitors. He indicated that the Council could solicit information on the likely level of processor participation from public comment.

Ms. Vojkovich spoke to the California recreational fishery closure and referenced the Council discussion in March about managing the California recreational fishery catch of yelloweye rockfish and the concern raised by some that bringing the fishery in to 20 fathoms may not be an adequate measure. Ms. Vojkovich indicated that the CDFG Director had committed to the Council and to the industry that the state would close the fishery if catch projections indicated the fishery would exceed the harvest guideline for yelloweye. She further indicated that CDFG had followed through on this commitment and had acted on September 2 to close the fishery north of Pt. Arena.

Mr. Sones reported that the Tribes had not found much whiting early in the season, but that whiting had shown up more recently. He indicated that canary bycatch issues had come up in tribal whiting fishing activity. He complimented the Makah Tribe in being able to keep canary bycatch down in their whiting fishery in light of these challenges.

Mr. Moore referenced the GMT report and pointed to the canary rockfish catch estimates. He asked if 1.3 metric tons would be sufficient to accommodate the tribal whiting fishery for the rest of the year. Mr.

Sones indicated that he believed so and explained that rockfish bycatch typically decreases later in the year as the whiting become more concentrated.

Mr. Anderson expressed appreciation for the GMT's work. He said he will be looking to provide opportunities for the communities trying to survive, and made reference to fishery closures implemented earlier in the year.

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

Ms. Heather Mann provided Agenda Item I.1.d, Supplemental GAP Report. Mr. Dayna Matthews provided Agenda Item I.1.d, Supplemental GAP Report.

#### **I.1.e Public Comment**

Mr. Karl Haflinger, Sea-State, Vashon, WA  
Mr. Richard Carol, Ocean Gold Seafoods, Westport, WA  
Mr. Dennis Rydman, Ocean Gold Seafoods, Westport, WA  
Mr. Greg Shaugnacy, Ocean Gold Seafoods, Westport, WA  
Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR  
Mr. John Bundy, Glacier Fish Company, Seattle, WA  
Mr. Mike Hyde, American Seafoods, Seattle, WA  
Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Mark Cooper, Cooper Fishing, Inc., Toledo, OR  
Mr. Pierre Marchand, Jesse's Ilwaco Fish Company, Ilwaco, WA  
Mr. Mike Okoniewski, Pacific Seafood, Woodland, WA  
Mr. Steve Bodner, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Steve Hughes, United Catcher Boats, Seattle, WA  
Mr. Chris Peterson, F/V Pacific Challenger, Seattle, WA  
Mr. Burt Parker, F/V Pacific Challenger, Seattle, WA  
Mr. Jim Seavers, fisherman, Newport, OR  
Mr. Brad Pettinger, Oregon Trawl Commission, Astoria, OR  
Mr. Steve Aarvick, F/V Windjammer, Lynnwood, WA  
Ms. Julie Sherman, Marine Fish Conservation Network, Portland, OR  
Ms. Karen Garrison, NRDC, San Francisco, CA  
Ms. Donna Parker, Arctic Storm, Seattle, WA

#### **I.1.f Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2008 Groundfish Fisheries**

Mr. Dale Myer moved and Mr. Mark Cedergreen seconded Motion 14 to adopt the following redistribution of canary rockfish that the GMT identified is available (4.1 mt):

- 4.1 mt (the number representing unattributed catch in the GMT scorecard)
- 0.4 mt to reopen the non-whiting bottom trawl fishery from 60 fms to 75 fms in the north (as shown in option 2, Table 5 of GMT report)
- 3.7 mt
- 2.0 mt to reopen the primary whiting fishery
- 1.7 mt remaining residual in the scorecard

Relative to the 2.0 mt of canary for the whiting fishery, specify that the whiting fishery is to reopen as soon as possible with a bycatch cap of 1.7 mt. An additional 0.3 mt would be subsequently released,

through an automatic action by NMFS, two weeks later, but not later than November 1, 2008. If the 1.7 mt cap is not reached, any remaining canary would rollover to be added to the 0.3 mt. In all cases, the canary rockfish bycatch in the whiting fishery would not exceed 2.0 mt.

This action would not directly affect a long-term allocation of canary rockfish.

Mr. Moore moved and Mr. Steve Williams seconded to amend Motion 14 (Amendment #1 to Motion 14) to add 12 mt of widow to the existing whiting bycatch cap of 275 mt for a new cap of 287 mt. Amendment #1 to Motion 14 passed unanimously. Main Motion 14 as amended passed unanimously.

Mr. Moore moved and Ms. Vojkovich seconded a motion (Motion 15), utilizing Agenda Item I.1.b, Supplemental GMT Report to make the following recommendations:

- Close Federal waters in the North and North-Central management areas of California (North of Point Arena) to recreational groundfish fishing.
- Increase the limited entry fixed gear sablefish DTL limits north of 36° N. lat. to one landing per week up to 1,500 lb, and 6,500 lb per 2 months; same daily limit of 500 lb.
- Increase open access shelf rockfish limits south of Point Conception (34° 27' N. lat.) to 1,000 lb per 2 months for period 6 only.
- Increase non-whiting trawl cumulative limits as outlined in bold in Table 6 of the GMT report.

Ms. Vojkovich made the clarification that the areas of closure for the California recreational fishery are in the north and north central management area North of Point Arena.

Motion 15 passed unanimously.

Mr. Lockhart expressed concern about NMFS staff workload and the ability to implement these inseason recommendations while simultaneously working on 2009-2010 harvest specifications.

Mr. Burden indicated that the GMT would bring back a revised scorecard that includes the results of this action as well as draft trip limits under the final inseason item on Friday. He indicated that he did not foresee any more inseason adjustment items.

## **I.2 Groundfish Essential Fish Habitat (EFH) Review Process**

### **I.2.a Agenda Item Overview (09/11/08; 8:09 a.m.)**

Mr. Tracy presented the agenda item overview.

### **I.2.b Recommendations of the Essential Fish Habitat Review Committee (EFHRC)**

Dr. Waldo Wakefield presented Agenda Item I.2.b, Supplemental EFHRC Report.

Mr. Lockhart asked what significant changes to Council Operating Procedure (COP) 22 the Essential Fish Habitat Review Committee (EFHRC) was proposing. Dr. Wakefield replied the paragraph dealing with EFHRC composition; the proposed changes more accurately reflect the current EFHRC composition and the request for tribal representation.

Mr. Lockhart asked for elaboration on the proposed annual review process. Dr. Wakefield replied the interim review cycle in COP 22 (Agenda Item I.2.a, Attachment 1) resulted in almost three years between implementation of any proposed changes and the EFHRC felt that was too long to deal with existing concerns for EFH.

Dr. McIsaac requested a summary of the proposed changes to COP 22. Dr. Wakefield replied the construction of the original purpose statement was not similar to other COPs, so the EFHRC moved most of the specific points under the purpose section to the objective section and referenced the relevant sections in the Groundfish FMP.

Ms. Culver felt the proposed changes appear to replace the Council's role in the EFH review process with that of the EFHRC. Dr. Wakefield replied the intent was not to replace the Council's role, but to draft a process that would assist the Council in achieving the stated objectives.

Mr. Warrens asked for the rationale for an annual review process. Dr. Wakefield replied that a two year cycle would result in almost three years before any needed change could be implemented. The annual review would also help the Council stay informed regularly rather than only at the five-year review process.

Mr. Warrens asked if the EFHRC support for an annual process was unanimous. Dr. Wakefield replied yes, although there was much discussion.

Mr. Warrens asked if there were discussions of Council budgetary issues and coordination with other processes. Dr. Wakefield replied there was little discussion about budgetary issues but considerable discussion about schedule coordination.

Ms. Fosmark felt the proposed EFHRC COP 22 (Agenda Item I.2.a, Supplemental Attachment 2) was primarily a reorganization of the original, and maintained the language about recommendations to the Council.

Ms. Culver asked when the EFHRC recommended cutoff was for proposed EFH changes to be implemented in January 2011. Mr. Tracy replied the intent of the proposed annual process was to align with the biennial specifications process in even years; in the odd years the Council could consider other implementation strategies if warranted. If not warranted, implementation would simply default to the biennial specification process the following year. The intent was to provide the Council flexibility for implementing high priority changes.

Mr. Moore asked if the EFHRC considered the potential disruption of having, for example, an HAPC being established in the middle of a two year fishing period. Dr. Wakefield replied yes, there was an extensive discussion on that topic, but the EFHRC felt there was sufficient need for a more responsive process.

Mr. Lockhart felt the possibility of needed action outside the biennial specification process was slight, but recognized the utility of having new information available annually. The proposed schedule appeared to allow consideration of such action, but actual implementation would likely be infrequent, and result in only two extra meetings of the EFHRC in most odd years.

Mr. Wolford stated the EFHRC proposed COP 22 (Attachment 2) appeared to reflect an advocacy position rather than assisting the Council. He asked if the EFHRC intended to reinvent its purpose. Dr. Wakefield replied no, the EFHRC was diverse in expertise, and their intent was to outline a process that would help the Council to gather information. Mr. Tracy replied the EFHRC was attempting to establish a structured and streamlined process.

Mr. Cedergreen asked if the EFHRC was recommending changing the EFHRC from an ad hoc to a permanent EFHRC to meet the proposed review schedules. Dr. Wakefield replied the EFHRC felt the

schedule was necessary to accomplish the objectives, but there was no recommendation for establishing the EFHRC on a permanent basis.

Ms. Culver clarified the Council intent for the five year review was to provide for an in depth analysis of EFH changes and HAPC proposals that all advisory bodies could respond to, and for the short-term review to respond more quickly to discovery of sensitive new areas by addressing fishing closures in the specification process until the more extensive five year review process could encompass a broader review.

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

None.

### **I.2.d Public Comment**

None.

### **I.2.e Council Action: Adopt a Final Groundfish EFH Review Process**

Mr. Warrens moved (Motion 16) to table the issue until March 2009 to allow an opportunity to clarify and assess the EFHRC proposed changes to COP 22, and for other advisory bodies to comment. Mr. Moore seconded the motion.

Mr. Warrens felt COP 22 needed to be finalized before the review process could start, and the concerns expressed dictated additional time to consider workload, meeting frequency, and staffing issues.

Mr. Mallet recommended additional direction be provided to the EFHRC to facilitate their discussions and recommendations for the March meeting.

Mr. Warrens accepted Mr. Mallet's recommendation as a friendly amendment, and recommended Chairman Hansen, Dr. McIsaac, and Mr. Tracy provide direction at the EFHRC meeting currently scheduled for October.

Ms. Culver noted the Council had a thorough discussion in developing COP 22 along with the Groundfish Amendment 19 process and recommended retaining the original COP 22 language.

Mr. Lockhart recommended not delaying the process until March. While the EFHRC report was within the direction provided for this meeting, the workload associated with either review process necessitated a quicker response.

Mr. Wolford recommended the EFHRC attempt to work with the existing COP 22 and recommend necessary changes as they proceed.

Ms. Culver recommended the EFHRC meet once prior to June 2009 in order to establish required elements for proposals and thereby accommodate the one existing proposal in the existing schedule.

Ms. Culver offered substitute motion (Motion 17) to retain COP 22, as presented in Attachment 1. Mr. Warrens seconded the motion.

Mr. Moore supported the substitute motion.

Ms. Fosmark asked if the Council intended to address the proposed addition of a tribal representative to the EFHRC. Mr. Sones replied the tribes did not want to participate in the coastwide process, but were interested in any proposals that would affect tribal usual and accustomed areas.

Mr. Warrens noted the original intent was for the Chairman to appoint additional members as needed.

Mr. Lockhart noted that the final rule for Amendment 19 was signed in 2006, which NMFS interpreted to mean that the first five year review should be initiated in 2011. If the original COP 22 (Attachment 1) is retained, the five year review would start in 2008. The original COP 22, however, does not preclude the EFHRC from recommending changes to the schedule.

Dr. McIsaac noted the original COP 22 also has a call for proposals at the September 2008 meeting, which did not occur.

Mr. Steve Williams noted there would be additional opportunities to change schedules if necessary.

Mr. Myer offered an amendment (Amendment #1 to Motion 17) to correct the timing of the five year review by substituting the table in Agenda Item I.2.b, Supplemental EFHRC Report, for the five year review table in the original COP 22. Mr. Cedergreen seconded the amendment.

Ms. Vojkovich asked for the EFHRC rationale for the five year review schedule. Mr. Wakefield replied the original schedule was out of date; the revised schedule reflected the 2011 start date.

Ms. Culver asked if the amendment was intended to retain the actions included in original COP 22 and just revise the timing of the five year review. Mr. Myer replied yes.

Dr. Hanson recommended withdrawal of the amendment to Motion 17 due to the extensive clarifications and qualifications.

Mr. Myer withdrew the amendment; Mr. Cedergreen concurred. (Amendment #1 to Motion 17 was withdrawn.)

Mr. Moore moved to amend Motion 17 (Amendment #2); for the five year review table on page 4 of the original COP 22 in Attachment 1, change June 2008 to June 2011 and add three years to the other dates in that table. Mr. Myer seconded Amendment #2 to Motion 17.

Amendment #2 to Motion 17 passed unanimously.

Dr. McIsaac restated the motion.

Motion 17 as amended passed unanimously.

Mr. Lockhart recommended guidance to the EFHRC to develop terms of reference for both the short-term and five year review process for Council approval.

Mr. Moore asked when the terms of reference would come before the Council for approval. Mr. Lockhart replied summer of 2009 or when appropriate.

Ms. Culver reiterated Council intent that the short term review process be initiated in June 2009, and requested the Executive Director and Council staff work with the EFHRC Chair to schedule any necessary meetings to prepare for the initiation of the short-term review process.



### **I.3 National Marine Fisheries Service (NMFS) Report**

#### **I.3.a Regulatory Activities (09/11/08; 9:50 a.m.)**

Mr. Lockhart provided comments on workload associated with EFPs, recent *Federal Register* notices and the issue of losing data buoys to fishing gear. He also spoke about whiting monitoring issues and recognized Lori Jesse, Becky Renko, Eileen Cooney, and Mariam McCall for their work on getting the monitoring program implemented and keeping the season open.

Mr. Lockhart provided a progress report on Amendment 10. He expects the amendment to be in place next season, pending any unexpected actions from the change over in the administration (e.g., OMB might put a stop on rulemaking). He expects final approval for Amendment 15 any week now. He also talked about a consultation on the seabird issue with US Fish and Wildlife Service that is moving ahead with conclusion of the consultation in 2009. He sees no real problem with the interaction of the groundfish fishery with seabirds and preventive actions are already being taken by the fixed-gear fishery.

Mr. Lockhart also noted that the pot and trap fishery for sablefish has been moved from a category III to a category II listing under the Marine Mammal Protection Act. NMFS will be following through with letters of notification, authorization, and registration of these vessels to comply with the change.

Regarding the implementation of the inseason whiting management measures adopted in June, the Council confirmed that NMFS could exercise its authority via a notice (followed by regulation) to close the fishery without requiring any further Council action (similar to salmon management).

Regarding a logbook requirement for the fixed-gear fishery in the 2009-10 management measures, Mr. Lockhart expressed that to complete a Federal requirement would require a trailing amendment to the 2009-10 measures. Following further discussion, it was agreed that more follow-up with the states would occur on how this measure is implemented—by the states or through a Federal measure.

Mr. Lockhart reported that the groundfish management measures for 2009-10 will be delayed and not be implemented on January 1, 2009. They are shooting for implementation by March 1, 2009. Ms. Cooney spoke about making inseason adjustments for the January/February timeframe based on using the existing 2008 management measures for period one.

#### **I.3.b Science Center Activities (09/11/08; 10:31 a.m.)**

Dr. Elizabeth Clarke and Dr. Jim Hastie provided an update on science center activities. The Trawl Coefficient Q workshop will be held by the NWFSC September 23-25, at the Hotel Deca, Seattle, Washington. The SWFSC has made progress on the historical catch reconstruction for the off-year science improvement (1931-1968). The NWFSC has also been making progress on historical data for Oregon and Washington. The data will be available in both PacFIN and RecFIN systems. Dr. Clarke spoke of other efforts made by the states to digitize historical catch reconstruction from paper copies.

Dr. Clarke also spoke about the timeline for the consolidated effort for determining halibut bycatch in the trawl fleet as well as a total mortality estimate. The schedule remains generally the same as contained in the Supplemental Information Report of June 4, 2007. The bycatch reports for the groundfish fishery are expected to be complete by October 1 and the total mortality report sometime in November. If convenient, new bycatch summaries could be included for the California halibut and pink shrimp trawlers at that same time. A summary of bycatch in the fixed-gear fishery should be finalized for the September 2009 Council meeting. With regard to the acoustic survey, there will be a new vessel available in 2010 for those surveys. There is also the inter-calibration issue between vessels which is in process.

The SWFSC has received funding from the Fisheries and the Environment Program to try to link oceanographic information with fishing operations.

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

None.

### **I.3.d Public Comment**

Mr. Bob Alverson, FVOA, Seattle, WA—spoke to the voluntary efforts of the fixed-gear fishery to limit interactions with seabirds.

### **I.3.e Council Discussion**

Council members Tim Roth and Michele Culver thanked Mr. Alverson for his proactive efforts to protect seabirds.

## **I.4 Fishery Management Plan Amendment 22: Open Access License Limitation**

### **I.4.a Agenda Item Overview (09/11/08; 11:15 a.m.)**

Mr. LB Boydston provided the agenda item overview. Mr. Boydston gave a PowerPoint presentation, available on the Council's website at: [http://www.pcouncil.org/bb/2008/0908/SUP\\_I4a\\_ATT4\\_0908.pdf](http://www.pcouncil.org/bb/2008/0908/SUP_I4a_ATT4_0908.pdf)

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

Mr. Boydston summarized Agenda Item I.4.c, Supplemental GAC Report. Dr. Steve Ralston provided Agenda Item I.4.b, Supplemental SSC Report. Ms. Joanna Grebel provided Agenda Item I.4.b, Supplemental GMT Report. Mr. Tommy Ancona provided Agenda Item I.4.b, Supplemental GAP Report.

### **I.4.c Public Comment**

Ms. Kate Wing, San Francisco Crab Boat Owners Association, San Francisco, CA  
Mr. Bill James, fisherman, Salem, OR  
Mr. Cliff Shipman, fisherman, Boise, ID  
Mr. Tom Capen, Port San Luis Fishermen's Association, San Luis Obispo, CA  
Mr. Rick Algert, Harbor Master, Morrow Bay, CA  
Ms. Laura Deach, longliner, Northport, WA  
Mr. Steve Aarvick, F/V Windjammer, Lynnwood, WA  
Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, CA  
Mr. Bill Blue, Morro Bay Commercial Fishermen's Association, Morro Bay, CA

### **I.4.d Council Action: Take Final Action or Adopt Preliminary Preferred Alternative for Public Review**

Mr. Steve Williams moved and Ms. Culver seconded a motion (Motion 18) to adopt the following as a preliminary preferred alternative for limiting the directed groundfish open access fishery:

1. Alternative A-4, as specified in the Preliminary Draft Environmental Assessment for Amendment 22 (Agenda Item I.4.a, Attachment 1) with a minimum landing criteria of 100 pounds.
2. Qualifying Framework QF-3 (1998-2006, with one trip in 2004-2006).
3. No long-term fleet size goal.
4. Allow for permit transferability after the first year of the program.
5. Allow for use of A and B permits on the same vessel in the same year using a declaration process.
6. No state landing endorsement provision.
7. No previous year B species landing requirement to renew or transfer permit.
8. Species endorsements for sablefish and lingcod; using the following qualifying criteria: one pound, 100 pounds, and 500 pounds in any one year from 1998-2006. All other B species will be managed under a general B permit.
9. Council Guidance: Notify all commercial fishery permit/license holders who landed any groundfish since 2004 in Washington, Oregon, and California that the PFMC proposed action may limit their opportunities in groundfish open access. This is to ensure notification of those affected by both the “B” and “C” permit alternatives. Include easily understood documents that clearly display the preliminary preferred alternative, that there are other alternatives for consideration, and where they can obtain more detailed information. Include a detailed description of what is allowed under the “C” permit, and how one is obtained. Provide notice of public comment opportunities in early January.

Motion 18 passed unanimously.

Regarding the timeline, Mr. Boydston asked if the Council would set final action for March 2009, with implementation in 2011. Mr. Lockhart said that is a much more reasonable timeframe and is do-able.

Ms. Culver said the states cannot issue “C” permits; Mr. Lockhart said if NMFS does it, we have to charge for it.

#### **I.5 Stock Assessment Planning for 2011-2012 Groundfish Fishery Decision Making (09/11/08; 3:05 p.m.)**

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

Mr. John DeVore provided the agenda item overview.

##### **I.5.b NMFS Northwest Fisheries Science Center Recommendations**

Dr. Elizabeth Clarke and Ms. Stacey Miller provided NMFS Northwest Fisheries Science Center recommendations. Dr. Clarke spoke to the draft STAR Panel schedule in Agenda Item I.5.a, Attachment 3. The SSC recommends a few changes to the STAR Panel schedule and the location of the STAR Panel meetings may need to be changed. The NWFSC agrees with the SSC’s recommendations on

the STAR Panel schedule. The schedule limits assessment reviews to two per panel and preserves the mop-up panel in the fall. A whiting panel is scheduled since the new assessment process is not set up yet.

The number-of-reviewers issue has been resolved by NOAA Fisheries identifying two CIE reviewers and other parties identifying the other reviewers. Mr. Moore asked if the NWFSC has agreed to the N=2 number of reviewers and Dr. Clarke said yes.

Mr. Moore asked if additional assessments coming into a STAR Panel, such as occurred last year in the whiting STAR Panel, is accounted for in the Terms of Reference. Ms. Miller said this is explicit on page 6 of the Terms of Reference.

Dr. McIsaac said there is a recommendation to specify a deadline to receive draft assessments in advance of the briefing book. He asked if this presented a problem and Ms. Miller said this could be a problem for some STAR Panels such as the whiting Panel, which may need to be advanced.

### **I.5.c Reports and Comments of Advisory Bodies**

#### SSC Report

Dr. Steve Ralston provided Agenda Item I.5.c, Supplemental SSC Report.

Mr. Hansen asked if there is a risk that greenspotted rockfish may be overfished and Dr. Ralston said there is no obvious conservation concern. This assessment may help inform how to assess a stock managed within a complex.

Mr. Moore asked if there is an explicit limit on competing assessments for a stock provided at a STAR panel. Dr. Ralston stated he is not sure this is well addressed in the Terms of Reference, but should be.

Mr. Moore asked if there was a problem with a deadline for post-STAR draft assessments of one week before the briefing book deadline and Dr. Ralston said this should be accomplishable in most, but not all, cases.

Mr. Moore asked if there is language in the Terms of Reference that would reject an assessment that is obviously incomplete and misses the deadline and Dr. Ralston said this language is offered in Supplemental Attachment 5.

Ms. Culver said that WDFW explained that they wanted to provide a spiny dogfish data report rather than a full assessment. They were surprised that this was still listed as a full assessment. She asked if the SSC had a discussion on a spiny dogfish data report and Dr. Ralston said this was not discussed. The goal going into the STAR Panel is to produce a full stock assessment. However, the SSC expects some of these draft assessments may become data reports if they are insufficient for a full assessment.

Mr. Wolford asked why the April 27-May 1 STAR Panel has different assessments and Dr. Ralston said this was to avoid a conflict of interest with the STAR chair.

Ms. Vojkovich said she is concerned with adding another stock (i.e., greenspotted rockfish) to the list of full assessments. She also does not know the importance of greenspotted rockfish to current management. She thought improving current assessments on important stocks was a higher priority. Dr. Ralston acknowledged a tension between adding new stock assessments and improving existing assessments. There is a need to assess more stocks and the greenspotted rockfish assessment may be a good template for how to assess a data-poor stock. This is why this stock assessment may take the form

of a data report. Ms. Vojkovich asked if the list of stock assessments is developed based on the data available and Dr. Ralston said this did factor into the decision to assess greenspotted rockfish.

Dr. McIsaac asked if there was a problem of advancing the February and August STAR panels by one week and Dr. Ralston said not from the SSC perspective.

### GAP Report

Mr. Tom Ancona provided Agenda Item I.5.c, Supplemental GAP Report.

#### **I.5.d Public Comment**

Ms. Karen Garrison, Natural Resources Defense Council, San Francisco, CA

#### **I.5.e Council Action: Adopt Final Stock Assessment Terms of Reference and Assessment Plan**

Mr. DeVore explained the elements and considerations for this decision.

Mr. Moore asked Dr. Clarke if it was possible to move up the February STAR Panel for hake next year and she explained why this could not be done.

Mr. Moore asked if there was anything that precluded provision of a minority report in a STAR Panel to the SSC and Dr. Clarke said that should be explicit in the Terms of Reference.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 19) to adopt the Groundfish Stock Assessment Terms of Reference (Agenda Item I.5.a, Attachment 1) with the following additions and changes:

- page 6 – substitute SSC language on the number of STAR panel reviewers from Agenda Item I.5.c, Supplemental SSC Report;
- pages 3 and 5 – substitute text from Agenda Item I.5.a, Supplemental Attachment 5 on Council staff and NMFS staff responsibilities;
- add definition of a data report from Agenda Item I.5.a, Attachment 2 with the recommended SSC change in wording from Agenda Item I.5.c, Supplemental SSC Report;
- give Council staff authority to finalize the Terms of Reference;
- include rejection language for late or incomplete assessments and deadlines for submission of materials for STAR Panels;
- allow STAR panel minority reports; and
- characterize deadlines for submission of STAR panel materials to the briefing book as guidelines.

Mr. Moore intentionally used guidelines rather than deadlines to provide more flexibility for STAR panel participants since some of the 2009 briefing book deadlines are soon after planned STAR meetings (e.g., the proposed 2009 Pacific whiting STAR panel).

Mr. DeVore asked if the motion includes provision of the required elements of pre-STAR draft assessments and Mr. Moore said yes.

Motion 19 carried unanimously.

Mr. Moore moved and Ms. Vojkovich seconded a motion (Motion 20) to adopt the proposed 2009 STAR panel schedule as shown on the Agenda Item SSC report with the following changes:

- keep dates and locations of proposed STAR panels as shown with the proviso that these can be changed for logistic reasons and to meet deadlines; and
- strike the proposed spiny dogfish and greenspotted assessments.

Mr. DeVore asked if there would there be a process for provision of greenspotted and spiny dogfish data reports and Mr. Moore said the motion does not speak to data reports.

Motion 20 carried (Mr. Mallet voted no).

Ms. Culver stated that WDFW does intend to compile spiny dogfish data and identify potential data gaps for a future assessment. One failing for spiny dogfish is that only one dogfish spine has been found from California for ageing spiny dogfish. The data summary will be provided as an informational report and presented to SSC for their review. She is not sure of the timing of that report.

Ms. Vojkovich asked if NMFS has guidance on stock assessment planning before we plan the next series of assessments. Mr. Lockhart asked if NMFS has any way of determining how to use a stock assessment for management decision-making. Dr. Clarke said there is a NMFS methodology of ranking the quality of assessments (tiers 1-4) that has been developed as a guideline document and has been employed by different regional management councils. This document may be helpful in ranking west coast assessments. She noted that there are criteria for priorities for new assessments contained in the current Terms of Reference.

Mr. Lockhart said his vote on striking the two assessments was compelled by workload and the need to improve assessments that make the most difference to our current management regime. Mr. Mallet said he fails to see how resources can be shifted to do a better job on fewer assessments. Mr. Lockhart said there are many people who contribute to an assessment and to the process for using assessment results to develop management advice.

## **I.6 Final Adoption of Exempted Fishing Permits (EFPs) for 2009**

### **I.6.a Agenda Item Overview (09/11/08; 4:09 p.m.)**

Mr. DeVore provided the agenda item overview. He explained that one of the EFP applications (Agenda Item I.6.a, Attachment 5) was withdrawn by the sponsors due to problems raised in advisory body meetings this week.

Mr. Moore asked if Supplemental Attachment 10 is to replace Attachment 3 and Mr. DeVore said he was not sure. He recommended asking Mr. Jim Martin when he delivers public comment.

Ms. Fosmark said she would recuse herself from the vote on the chilipepper EFP sponsored by Mr. Steve Fosmark (Agenda Item I.6.a, Attachment 1) for conflict of interest reasons.

### **I.6.b Agency and Tribal Comments**

None.

### **I.6.c Reports and Comments of Advisory Bodies**

#### GMT Report

Ms. Joanna Grebel provided Agenda Item I.6.c, Supplemental GMT Report.

Ms. Culver asked if the cowcod cap for the EFP sponsored by The Nature Conservancy (TNC) et al. (Agenda Item I.6.a, Attachment 3) was raised in Table 1 of the GMT report and Ms. Grebel said no.

Ms. Culver asked what the residual yields for the other bycatch cap species were in the scorecard and Mr. DeVore said the residual, unused yields are as follows: canary rockfish- 5.0 mt (however, this assumes the catch sharing guideline adopted for 2009 and the actual predicted impacts will be much lower); cowcod -1.9 mt; and yelloweye- 0.5 mt. For widow rockfish, the scorecard shows all the residual yield allocated to the non-treaty whiting fishery. However, the actual widow rockfish cap will be decided next March by the Council. He said he will look up the residual yields for darkblotched rockfish, Pacific ocean perch, and bocaccio.

Mr. Lockhart asked if there would be 100 percent observer coverage for the Fosmark EFP and Ms. Grebel said yes.

Mr. Moore asked about the 3 mt widow cap request for the Oregon yellowtail EFP and the lack of bold font indicating this is a new request. Further, the RFA chilipepper widow cap request is 3 mt in bold, but that figure is not in the RFA chilipepper EFP application. Mr. DeVore said the 3 mt cap request for the Oregon yellowtail EFP is a new request and the figure in the GMT table should have been in bold. The RFA chilipepper widow cap amount is a new request and is therefore in bold in the GMT table.

Mr. DeVore provided the residual yield amounts for the other species as follows: bocaccio- 167.2 mt; darkblotched rockfish- 7.6 mt; and Pacific ocean perch- 93.6 mt.

Ms. Vojkovich asked if EFP bycatch caps can be adjusted inseason next year and Ms. Grebel said that was her understanding. Mr. DeVore said this has occurred for bycatch caps in the whiting fishery and there was one interpretation that EFP caps can also be changed inseason. Mr. Lockhart said EFP caps have not been adjusted inseason in prior years. Ms. Cooney said the whiting caps are adjusted inseason since the EFP enables the shoreside whiting fishery is to be actively managed using bycatch caps. Ms. Culver recommended against inseason adjustment of EFP bycatch caps.

Mr. Moore asked if the GMT recommended a smaller yelloweye cap and a larger cowcod cap for the TNC EFP cap and Mr. DeVore said, with a 150 fm restriction, a 150 lb yelloweye cap was not needed and a 50 lb cap would suffice. The GMT recommendation on cowcod was simply that there was some cowcod yield available if the Council wanted to consider a higher cowcod cap for that EFP. Mr. Moore asked if the new higher requested amount of cowcod cap in The Nature Conservancy EFP is in the GMT table and Mr. DeVore said no, the original requested amount of cowcod is in the table.

### GAP Report

Mr. Tom Ancona provided Agenda Item I.6.c, Supplemental GAP Report.

Mr. Moore asked if the GAP recommends the 3 mt widow cap for the Oregon recreational EFP and Mr. Ancona said yes. Mr. Moore asked if the GAP discussed a 3 mt widow cap for the RFA chilipepper EFP and Mr. Ancona said no, but subsequent discussions with GAP members did not identify a concern.

Mr. Moore asked for clarification on the GAP recommendation to cap the TNC EFP to 50 mt of sablefish and Mr. Ancona said the GAP is encouraging targeting on other species than sablefish. There was significant GAP discussion on this issue and we already know how to catch sablefish with trawl or fixed gear. This is a GAP compromise for this EFP, which is not generally well accepted by the GAP. The purpose of this EFP should not be to encourage a new fishery. Mr. Moore asked if the GAP position was that 330 mt of sablefish will not improve the experiment and Mr. Ancona said yes. Mr. Moore asked if

the GAP supported testing the ability of a regional fishing association to self-manage a fishery and Mr. Ancona said the GAP guardedly supports that purpose and need.

Mr. Lockhart asked how the GAP came to the conclusion that 50 mt of sablefish for the TNC EFP was adequate and Mr. Ancona said the EFP is attempting to gain access to trawl sablefish using fixed gear, which is not revolutionary. The GAP believes other species should be targeted as well for a fully informed experiment. Otherwise, this is simply a directed fishery for sablefish.

#### **I.6.d Public Comment**

Mr. Michael Bell, The Nature Conservancy, Los Osos, CA  
Mr. Rick Algert, Harbor Master, Morro Bay, CA  
Mr. Bill Blue, Morro Bay Fishermen's Association, Morro Bay, CA  
Mr. Daniel Platt, Salmon Trollers Marketing Association, Fort Bragg, CA  
Mr. Jim Martin, Recreational Fishing Alliance, Fort Bragg, CA

#### **I.6.e Council Action: Adopt Final Recommendations for 2009 EFPs**

Mr. Moore asked Mr. Jim Martin if the Recreational Fishing Alliance and the Golden Gate Fishermen's Association are requesting two hooks or five hooks per angler in the chilipepper EFP application and Mr. Martin said the request was revised to two hooks per angler to be consistent with CDFG regulations.

Ms. Vojkovich asked Mr. Michael Bell about their request for a higher cowcod bycatch cap in the TNC EFP and Mr. Bell said they are requesting a 450 pound cap.

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 21) to approve the Fosmark EFP as shown in Agenda Item I.6.a, Attachment 1 with the errata in Agenda Item I.6.a, Supplemental Attachment 8. The motion also includes the GMT's retention recommendations for this EFP.

Mr. Moore said this is the same EFP approved last year for 2008 with the change in the scientists who will conduct the data analysis. Since health issues of the EFP participant delayed this EFP this year, the EFP deserves a test next year.

Motion 21 carried (Ms. Fosmark recused).

Mr. Moore moved and Mr. Warrens seconded a motion (Motion 22) to approve the RFA chilipepper EFP (Agenda Item I.6.a, Attachment 3) as revised by Agenda Item I.6.a, Supplemental Attachment 11, with the five hook request on page 3 deleted and with a widow cap of 1.7 mt rather than 3 mt.

Mr. Moore said this EFP was approved last year for 2008, but there has been no activity and results yet. Since there was a delay in getting this EFP on the water, the EFP deserves a thorough test on the water. The increased widow cap rationale was based on the Oregon experience where more hooks were fished at shallower depths where widow are more likely encountered. Mr. Moore did not believe there is the need for a higher widow cap for this EFP.

Ms. Vojkovich asked Mr. Martin if there was intent to retain groundfish other than rockfish as shown in the revised application and Mr. Martin said the intent was to only retain rockfish. Ms. Vojkovich asked for a friendly amendment to only allow rockfish retention and Mr. Moore and Mr. Warrens accepted.

Motion 22 carried unanimously.



Mr. Steve Williams moved and Mr. Moore seconded a motion (Motion 23) to approve the Oregon yellowtail EFP as shown in Agenda Item I.6.a, Attachment 4 with the GMT's recommendations on retention.

Mr. Steve Williams said the EFP proponents have worked closely with ODFW. This EFP may open up recreational opportunities in waters off Oregon.

Ms. Culver asked Mr. Steve Williams if the motion contains the GMT recommendation to include spatial data collection and analysis and Mr. Williams said yes.

Mr. Cedergreen said he supported this EFP. He noted the EFP will occur in depths greater than 40 fm in locations at the captains' discretion. He wondered if locations should be chosen randomly in a grid for a better scientific study. Mr. Williams explained the EFP tests the new gear and the ability of fishermen to effectively target yellowtail rockfish. He thought Mr. Cedergreen's idea could be explored subsequent to the first year of testing this EFP.

Motion 23 carried unanimously.

Ms. Vojkovich moved and Mr. Wolford seconded a motion (Motion 24) to approve the Morro Bay/Port San Luis (TNC) EFP for next year with the bycatch caps recommended on page 4 of the GMT report, a cowcod cap of 0.2 mt, and a sablefish cap of 150 mt.

Ms. Vojkovich said this is the second year of this EFP, which can provide good information on how a regional fishing association can work and how well fishermen can organize for effective management of a regional fishery. There is a need to build in incentives to participate in the EFP. The costs to fishermen are higher who participate in the EFP. Therefore, there is a need to provide a high enough sablefish cap as an incentive. With the Conception area sablefish OY increasing next year, a higher cap can be provided. Setting a sablefish cap lower than the requested 330 mt responds to concerns raised by other fishermen.

Ms. Culver explained she supported the motion and has also deliberated on an appropriate sablefish cap. The open access limits for next year are 8,000 lbs of sablefish per two months which equates to 136 mt per year for six vessels. Since there is no formal allocation of sablefish in the Conception area, a cap of 150 mt strikes a good balance.

Mr. Moore said last year's deliberation of a sablefish cap parsed out in two seasonal allotments responded to a lower OY and fishermen's concerns. With a higher OY next year, there is no need for the same seasonal cap and a higher sablefish cap can be supported. The motion does strike a reasonable balance. He agreed with proponents' request for a higher sablefish cap to provide incentives. This EFP should not be looked at as a way to provide a fishery for two ports, but as an experiment. The applicants need to know this experiment should not necessarily endure. There needs to be a clear road map of how this EFP will inform us and how long this EFP needs to be conducted.

Mr. Myer said he did not support this EFP in June, but the rationale provided by EFP proponents and Council members has changed his mind. While he still has reservations, he is now in support.

Mr. Lockhart thought this was a good experiment and will provide valuable information as the Council considers regional fishing associations in the future.

Ms. Fosmark said she supports the EFP and acknowledged the higher costs to fishermen participating in the EFP. She therefore moved and Ms. Vojkovich seconded a motion to amend Motion 24 (Amendment to Motion 24) to provide a sablefish cap of 165 mt.

Mr. Moore said he does not support the amendment. He would like to encourage participants to target species other than sablefish. The 150 mt sablefish cap is therefore a better level of harvest.

Mr. Wolford said he supports the amendment. One valuable attribute of the EFP is to see how well regional fishing associations can manage a fishery under adverse conditions. However, there is a need for incentives to gain fishermen participation.

The Amendment to Motion 24 carried on a roll call vote (Messrs. Rod Moore, Dale Myer, Steve Williams, Frank Warrens, and David Sones voted no).

Motion 24 as amended carried unanimously.

Ms. Vojkovich said this has been a challenging EFP cycle. The amount of staff and Council time has been out of proportion. These EFPs and the conditions are like regulations and have to be specific. A short term problem is to iron out details. The Council should look at EFPs in a broader perspective and should seriously deliberate how EFP results can be applied coastwide. The Council should prioritize EFPs with this in mind. EFPs should have a multi-year perspective to consider all the details in an EFP experiment. The Council should limit EFPs in the future. Mr. Lockhart echoed those comments and explained his staff workload is high in implementing EFPs. The more complicated EFPs take a significant amount of time to implement.

## **I.7 Final Consideration of Inseason Adjustments (if Needed)**

### **I.7.a Agenda Item Overview (09/12/08; 9:10 a.m.)**

Mr. Burden provided the agenda item overview, noting that final inseason action had been taken by the Council under Agenda Item I.1.

### **I.7.b Report of the GMTbe**

Mr. Burden read Agenda Item I.7.b, Supplemental GMT Report, the scorecard which had been revised to reflect the Council's action under I.1.

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

None.

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

None.

### **I.7.e Public Comment**

None.

### **I.7.f Council Action: Adopt or Confirm Final Adjustments to 2008 Groundfish Fisheries**

Mr. Moore asked about the bottom trawl gear regulations put in place through the June inseason action. He indicated that the Federal regulations were not consistent with the Council motion and asked if the draft trip limit tables attached to the GMT report accurately reflected the Council's motion under Agenda Item I.1. Mr. Burden indicated that they appeared accurate.

**ADJOURN**

The 195th Council meeting was adjourned at 10:45 a.m. on Friday, September 12, 2008.



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Council Chairman

March 13, 2009

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Date